

FILED

JUN 30 1978

~~MICHAEL RODAK, JR., CLERK~~

APPENDIX

IN THE
Supreme Court of the United States
OCTOBER TERM, 1977

No. 77-1051

BESSIE B. GIVHAN,

Petitioner,

v.

WESTERN LINE CONSOLIDATED SCHOOL DISTRICT ET AL.,
Respondents.

**On Writ of Certiorari to the United States Court of Appeals
for the Fifth Circuit**

**PETITION FOR CERTIORARI FILED JANUARY 25, 1978
CERTIORARI GRANTED APRIL 3, 1978**

TABLE OF CONTENTS

	Page
I. Selected Docket Entries	1
A. District Court	1
B. Court of Appeals.....	2
II. Desegregation Orders and Opinion Entered Before Petitioner's Complaint in Intervention	3
A. Memorandum Opinion in GC661, dated August 10, 1966	3
(Appendix I of Brief in Opposition)	
B. Order in GC 661-S, dated January 12, 1970..	3
C. Order, dated January 21, 1970	8
D. Order approving amended attendance plan, dated June 29, 1970	11
E. Order, in GC 73-29-S, dated August 31, 1973..	14
III. Pleadings	16
A. Complaint in Intervention for Injunctive and Other Relief, filed Scptember 14, 1973	16
Attachment A—Letter from James S. Leach to C. L. Morris, dated 12-7-70	29
Attachment B—Minutes of Meeting of the Western Line Board Members	30
Attachment C — Employee Evaluation Form for Bessie Givhan	39
Attachment D—Letter from James S. Leach to Mr. Morris, dated 4-16-71	43
Attachment E—Letter from James S. Leach to C. L. Morris, dated 5-1-71	44
Attachment F—Letter from C. L. Morris to Bessie B. Givhan, dated 7-28-71	45
B. Answer and Motion to Strike, dated October 5, 1973	47

(ii)

TABLE OF CONTENTS—Continued

	Page
IV. Opinions and Judgments	54
A. District Court's Memorandum of Decision, dated December 18, 1973	57
B. District Court's Memorandum of Decision, dated July 2, 1975	57
(BAppendix B of Petition)	
C. Opinion of the Court of Appeals, dated July 18, 1977	57
(BAppendix A of Petition)	
D. Judgment of the Court of Appeals, dated July 18, 1977	57
(BAppendix C of Petition)	
E. Court of Appeals' Denial of Petition for Re- hearing and Suggestion for Rehearing En Banc	57
(BAppendix D of Petition)	
V. Selected Excerpts from the Record	58
A. Transcript of Proceedings of May 7 and 8, 1975	58
Testimony of James S. Leach	66, 173
Testimony of Dollye W. Hodges	85, 171, 207
Testimony of Bessie B. Givhan	114
Testimony of Arcell Jacob	158
Testimony of Sheryle Ann Molette	162
Testimony of Janie Carol Lewis	166
Testimony of Hiram T. Cochran	176
Testimony of Harold Adams	202
Ruling of the Court	210
B. Trial Exhibits	215

(iii)

TABLE OF CONTENTS—Continued

	Page
Stipulated Exhibit No. 1—Analysis of Annual Changes, Classroom Teachers, WLCSD 1969-70 through 1973-74	215
(BAppendix II of Brief in Opposition)	
Stipulated Exhibit No. 2—Population Changes, WLCSD, Classroom Teachers and Pupils, 1969-70 through 1974-75	216

I. SELECTED DOCKET ENTRIES

A. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

No. GC 661-S

HENRY B. AYERS, et al.,

Plaintiffs,

and

Ms. BESSIE B. GIVHAN, et al.,

Plaintiff-Intervenors,

v.

WESTERN LINE CONSOLIDATED SCHOOL DISTRICT, et al.,
Defendants.

DATE	PROCEEDINGS
1973	
Sept. 14	Intervention Complaint for Injunctive and Other Relief filed.
October 9	Answer and Motion to Strike filed.
1975	
May 7-8	Court Trial.
July 7	Order and Memorandum of Decision filed.
July 28	Notice of Appeal filed.
August 7	Order staying execution of judgment pending appeal filed.

B. Court of Appeals

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 75-3485

DATE	PROCEEDINGS
1975	
Sept. 17	Appeal Docketed.
1977	
March 21	Case argued and submitted.
July 18	Opinion filed.
July 18	Judgment filed.
August 15	Petition for Rehearing filed.
October 27	Order Denying Petition for Rehearing filed.

**II. DESEGREGATION ORDERS AND OPINION EN-
TERED BEFORE PETITIONER'S COMPLAINT IN
INTERVENTION**

A. The Memorandum Opinion in GC 661, dated August 10, 1966 is printed as Appendix I of the Brief in Opposition.

B. Order in GC 661-S, dated January 12, 1970.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

No. GC 661-S

HENRY B. AYRES, et al.,
Plaintiffs
v.

WESTERN LINE CONSOLIDATED SCHOOL DISTRICT, et al.,
Defendants

ORDER

Upon consideration of the record herein, it is

ORDERED:

1) That the provision of the Court's Orders of August 22, 1969 and October 2, 1969, in the aforesaid cause shall be and the same are rescinded and withdrawn;

2) That defendants shall file with the Clerk of the Court on or before January 19, 1970, a new plan for the operation of its schools which will eliminate the dual school system based on race or color, and permit defendants to begin operating a unitary system of schools with-

in which no person shall be effectively excluded from any school because of race or color;

3) That the said plan shall comply with the requirements of *Alexander v. Holmes County*, 1969, 24 L.ed 2d 19, and the terms, provisions and conditions (including time specified) in *Singleton v. Jackson Municipal Separate School System* (and consolidated cases *en banc*), — F.2d — (No. 26,285, December 1, 1969);

4) That defendants shall include in said plan, and implement the same by February 1, 1970, the following provisions:

DESEGREGATION OF FACULTY AND OTHER STAFF

The School Board shall announce and implement the following policies:

a) Effective not later than February 1, 1970, the principals, teachers, teacher-aides and other staff who work directly with children at a school shall be so assigned that in no case will the racial composition of a staff indicate that a school is intended for Negro students or white students. For the remainder of the 1969-70 school year the district shall assign the staff described above so that the ratio of Negro to white teachers in each school, and the ratio of other staff in each, are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system.

The school district shall, to the extent necessary to carry out this desegregation plan, direct members of its staff as a condition of continued employment to accept new assignments.

b) Staff members who work directly with children, and professional staff who work on the administra-

tive level will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin.

c) If there is to be a reduction in the number of principals, teachers, teacher-aides, or other professional staff employed by the school district which will result in a dismissal or demotion or any such staff members, the staff member to be dismissed or demoted must be selected on the basis of objective and reasonable non-discriminatory standards from among all the staff of the school district. In addition if there is any such dismissal or demotion, no staff vacancy may be filled through recruitment of a person of a race, color, or national origin different from that of the individual dismissed or demoted, until each displaced staff member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so.

Prior to such a reduction, the school board will develop or require the development of non-racial objective criteria to be used in selecting the staff member who is to be dismissed or demoted. These criteria shall be available for public inspection and shall be retained by the school district. The school district also shall record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available upon request to the dismissed or demoted employee.

"Demotion" as used above includes any reassignment (1) under which the staff member receives less pay or has less responsibility than under the assignment he held previously, (2) which requires a lesser degree of skill than did the assignment he held previously, or (3) under which the staff member is asked to teach a subject or grade other than the one for which he is certified or for which he has had

substantial experience within a reasonably current period. In general and depending upon the subject matter involved, five years is such a reasonable period.

**MAJORITY TO MINORITY
TRANSFER POLICY**

The school district shall permit a student attending a school in which his race is in the majority to choose to attend another school, where space is available, and where his race is in the minority.

**SCHOOL CONSTRUCTION AND
SITE SELECTION**

All school construction, school consolidation, and site selection (including the location of any temporary classrooms) in the system shall be done in a manner which will prevent the recurrence of the dual school structure once this desegregation plan is implemented.

5) That the School Board shall take such preliminary steps as may be necessary to prepare for complete student desegregation by February 1, 1970, if such desegregation is ordered by the Supreme Court;

6) That the School Board is directed to take no steps which are inconsistent with, or which will tend to prejudice or delay, a schedule to implement on or before February 1, 1970, such desegregation plan as may be ordered by the Court for full student desegregation;

7) That all orders heretofore entered in this cause which are in conflict with this order shall be and hereby are rescinded; that all orders not in conflict with this order shall remain in full force and effect;

8) That the Clerk of the Court shall mail a certified copy of this order to all counsel of record;

9) That the Court retain jurisdiction of the cause for the purpose of entering any further orders that may become necessary and appropriate;

10) That a hearing will be held by the Court on the plan submitted by the School Board and the plan previously submitted by the Health, Education and Welfare at 3:00 p.m., January 20, 1970, at the United States District Courthouse, Greenville, Mississippi;

11) That the School Board is not prevented or discouraged from considering and presenting to the Court for approval at a later date, the ungraded school concept, but that such a plan cannot be employed until a unitary school system has been established. *Anthony, et al. v. Marshall County Board of Education*, 5 Cir. 1969, ____ F.2d ____ [No. 28261 Slip Opinion dated December 1, 1969].

This the 12th day of January, 1970.

/s/ Orma R. Smith
United States District Judge

C. Order, dated January 21, 1970.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

No. GC 661-S

HENRY B. AYERS, et al.,
Plaintiffs

v.

WESTERN LINE CONSOLIDATED SCHOOL DISTRICT, et al.,
Defendants

ORDER

In accordance with the ruling of the Court in open hearing on January 20, 1970, in the United States District Court, Greenville, Mississippi, it is

ORDERED:

1) That the student desegregation plan submitted to the Court on August 8, 1969, by the Department of Health, Education and Welfare, with certain exceptions herein noted, is adopted by the Court for implementation in the said school district commencing with the second semester of the 1969-70 school year.

STUDENT DESEGREGATION

2) That the defendant district shall be divided into two zones as follows: The portion of the district situated South of Mississippi Highway #12, shall constitute the "South Zone", and the portion of the district situated North of that highway shall constitute the "North Zone";

3) That all students in grades 1 through 6 residing in the South Zone shall be assigned to the Glen Allen Attendance Center, and all students in said grades residing in the North Zone shall be assigned to the O'Bannon Attendance Center; and

4) That all students residing in the district in grades 7 through 12 be assigned to attend the Riverside Attendance Center;

5) That students residing in defendant school district presently attending the schools of the Greenville Municipal Separate School District, shall be exempt from the provisions of this order for the balance of the 1969-70 school year, and may continue for the balance of said year to attend the schools at which they are presently in attendance;

6) That the school district shall have until and including February 9, 1970, to begin the second semester of the 1969-70 school year, and to implement the plan of the Department of Health, Education and Welfare as altered by this order;

7) That the school board is not prevented or discouraged from presenting to the Court for approval at a later date, the ungraded school concept, but that such a plan must insure that the school district will not revert to a dual system of schools;

8) That the provisions set forth in Paragraph (4) of the Court's order of January 12, 1970, shall be and the same hereby are adopted by reference for the governing of the schools of the defendant district;

9) That all the provisions of all prior orders entered herein which have not been rescinded, and are not in conflict with the provisions of this order are hereby specifically retained as effective orders of the Court herein;

10) That the Court retain jurisdiction of this cause for the purposes of entering any further orders which may become necessary and appropriate;

11) That certified copies of this Order shall be mailed by the Clerk of the Court by certified mail to all counsel of record.

This the 21st day of January, 1970.

/s/ Orma R. Smith
United States District Judge

D. Order approving amended attendance plan, dated June 29, 1970

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

Civil Action No. GC 661-S

HENRY B. AYERS, *et al.*,
Plaintiffs,
vs.

WESTERN LINE CONSOLIDATED SCHOOL DISTRICT, *et al.*,
Defendants.

**ORDER APPROVING AMENDED
ATTENDANCE PLAN**

This cause having come on to be heard on motion of defendants for an amended attendance plan, and it appearing that both plaintiffs and defendants have agreed that paragraphs 5 and 6 of said motion all be stricken;

And, the Court having considered the same together with evidence introduced in previous hearings in this case, and being fully advised in the premises;

THE COURT IS SATISFIED AND DOES FIND

1. That the proposed zoning recommended by defendants has reasonable prospects of producing an unitary school system conforming to the requirements of the Constitution of the United States and should be given an opportunity to work;

2. That the proposed boundaries are reasonable in terms of economic transportation requirements, the physical capacities of the respective attendance centers involved, and the residential patterns of pupils both white and black; it is, therefore

ORDERED, ADJUDGED AND DECREED

3. That defendants shall maintain three attendance centers, each serving grades 1-12, inclusive, to be located at the present O'Bannon, Riverside and Glen Allan sites. All pupils residing within the attendance zone assigned to each center shall attend that center.

4. That the boundary between O'Bannon and Riverside centers may require changes in the future to adjust to population changes, so as to maximize integration and fully utilize physical plants, but, initially, it is described as:

Begin at the intersection of the line between ranges 8 and 9 with the centerline of Lake Lee; thence north along the range line to the southwest corner of Section 11-17-8; thence east to the southeast corner of Section 11-17-8; thence north along the east line of said section to its intersection with the centerline of a lateral canal maintained by Riverside drainage District; thence easterly along the centerline of said canal to its intersection with the centerline of Main Canal No. 9; thence south along the centerline of said main canal to the southwest corner of Section 27-17-8; thence east to the southeast corner of Section 28-17-8; thence south to the centerline of Mississippi State Highway No. 438; thence east along the centerline of said highway to the western boundary of WLCSD.

5. That the boundary between Riverside and Glen Allan attendance Centers shall be described as:

Beginning at the intersection of the south line of Section 17-15-9 (extended) with the thalweg of the Mississippi River; thence easterly along the south line of said section to the line between sections 19 and 30-15-8; thence due east along the section lines to the southwest corner of Section 20-15-7, a point on the western boundary of WLCSD.

6. That all the provisions of all prior orders entered herein which have not been rescinded and are not in conflict with the provisions of this order are hereby specifically retained as effective orders of the Court herein;

7. That the Court retain jurisdiction of this cause for the purpose of entering any further orders which may become necessary and appropriate;

8. That certified copies of this Order shall be mailed by the Clerk of this Court by certified mail to all counsel of record.

This the 29th day of June, 1970.

/s/ Orma R. Smith
ORMA R. SMITH
United States District Judge

APPROVED:

/s/ Melvyn R. Leventhal
MELVYN R. LEVENTHAL
Attorney for Plaintiffs

ROBERTSHAW, MEREDITH & SWANK

/s/ J. Robertshaw
J. ROBERTSHAW
Attorneys for Defendants

E. Order, in GC-73-29-S, dated August 31, 1973

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

No. GC 73-29-S

MRS. BESSIE GIVHAN, et al.,
Plaintiffs,

v.

THE BOARD OF EDUCATION OF WESTERN LINE
CONSOLIDATED SCHOOL DISTRICT, et al.,
Defendants.

ORDER

Pursuant to the provisions of the Memorandum of Decision this day released in the captioned action, it is

ORDERED AND ADJUDGED:

- 1) That the action shall be, and the same hereby is, dismissed, subject, however to the right of plaintiffs to intervene in *Ayers, et al. v. Western Line Consolidated School District, et al.*, GC 66-1-S;
- 2) That the dismissal of this action shall be without prejudice to plaintiffs to file a complaint of intervention as above provided;
- 3) That permission is hereby granted the complainants to file the intervention aforesaid; and
- 4) That an executed copy of this order shall be filed by the clerk in *Ayers, et al. v. Western Line Consolidated School District, et al.*, GC 66-1-S, and shall evidence the

leave which the court has granted in this action to the plaintiffs to intervene in *Ayers*.

Dated: August 31, 1973.

/s/ Orma R. Smith
United States District Judge

III. PLEADINGS

A. Complaint in Intervention for Injunctive and Other Relief, and Attachments thereto, filed September 14, 1973

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

[Title Omitted in Printing]

INTERVENTION COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF

I

This is a suit in equity arising under the First, Thirteenth, and Fourteenth Amendments to the United States Constitution, Title VI of the Civil Rights Act of 1964, § 601, 42 U.S.C. § 2000d, and 42 U.S.C. §§ 1981, 1983 and 1985 to secure injunctive and other equitable relief from the racially discriminatory, arbitrary, capricious and otherwise unlawful discharge and refusal to rehire Black public school teachers by officials of the Western Line Consolidated School District.

II

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343. The matter in controversy exceeds the sum of ten thousand dollars, exclusive of interest and costs.

III

Plaintiff-intervenor, Bessie Givhan, a Black citizen of the United States and of the state of Mississippi, resides in Washington County, Mississippi and was employed by

the Western Line Consolidated Separate School District from September, 1963 until her termination by defendants in 1971. Plaintiff has a total of twelve (12) years teaching experience.

IV

Plaintiff-intervenor, Mary Butler, a Black citizen of the United States and of the state of Mississippi, resides in Washington County, Mississippi and had been employed by defendants two (2) years at the time of her dismissal. She has a total of eight (8) years experience as a teacher.

V

Plaintiff-intervenor, Dollye W. Hodges is a Black citizen of the United States and the state of Mississippi. She also resides in Washington County, Mississippi and had been employed by defendants. She has a total of five (5) years experience as a teacher and three (3) as a counselor, all of them in the Western Line School District.

VI

Plaintiffs-intervenors bring this action on their own behalf and on behalf of all others similarly situated. Class A consists of all Black teachers who were discharged or not rehired by the defendants since the 1969-70 school year as a result of racially discriminatory, arbitrary, capricious or unlawful action by the defendants, in violation of *Singleton v. Jackson Municipal Separate School District*, 419 F. 2d 1211 (5th Cir. 1969) and *Ayers v. Western Line Consolidated School District*, Civil Action No. GC 661-S. Class B consists of all Black teachers who were discharged or not rehired by the defendants for engaging in activities protected by the First and Fourteenth Amendments to the United States Constitution. Class C consists of all Black employees of the Western

Line Consolidated School District who have been discharged, or not rehired since the 1969-70 school year or otherwise discriminated against because of their Black race in violation of the Thirteenth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1981 and 1983.

This is an appropriate class action under Rule 23: the members of the classes on whose behalf plaintiffs sue are so numerous as to make it impracticable to bring them all individually before this Court; there are common questions of law and fact involved, common grievances arising out of common wrongs; common relief is sought for each plaintiff and for each member of the class; the plaintiffs named herein fairly and adequately represent the interests of the classes; defendants acted and refused to act on grounds applicable to the classes of plaintiffs generally. Moreover, the questions of law and fact common to the members of the classes predominate over any question affecting only individual members, and a class action is superior to other available methods for adjudication of the controversy, and is the most fair and efficient method.

VII

The defendant, Western Line Consolidated Board of Education (referred to hereinafter as "Board") is a public body organized and existing under the laws of the State of Mississippi. Defendant Harold N. Adams is sued individually and in his official capacity as Superintendent of the Western Line Consolidated Board of Education. The defendants, H. Y. Cochran, Chalmers E. Hobart, Wynn Starnes, Clyde Nichols, and W. T. Eifling are sued individually and in their capacity as members of the Washington County Board of Education. The defendant Board is charged under Mississippi law with maintaining and supervising schools under its jurisdiction, including the hiring and rehiring of teaching personnel on an annual contract basis. The defendant is charged under Mississippi law with recommending to the defendant board teaching personnel to be rehired. At all relevant times set out hereinafter, defendants were acting under color of the laws of the State of Mississippi.

Plaintiff-intervenor Givhan and members of her class A were all public school teachers in the Western Line School District for the year 1971-72 and were notified during April and May of 1971 that their contracts would not be renewed.

FIRST CAUSE OF ACTION

VIII

Plaintiff-intervenor Givhan and members of her class A were all public school teachers in the Western Line School District for the year 1971-72 and were notified during April and May of 1971 that their contracts would not be renewed.

IX

Plaintiffs-intervenors Butler and Hodges and members of their class A were all public school teachers in the Western Line School District for the year 1972-73 and were notified in March, 1972 that their contracts would not be renewed.

X

The Board's decision not to renew said contracts was based solely on the race of plaintiffs-intervenors and members of their class. Plaintiffs-intervenors and members of their class are well qualified to teach in the Western Line Consolidated School District and served satisfactorily within this school system as teachers and educators for many years.

XI

Defendant board acting under color of the authority vested in them by the laws of the State of Mississippi, refused to offer plaintiffs herein and other members of the plaintiff class contracts to teach in the Western Line

Consolidated School District for the 1971-72 and the 1972-73 school years. Said action resulted from the unitization of the Western Line School District.

XII

Defendants have a long history of discrimination in that they maintained dual school systems for Blacks and whites until ordered to provide and maintain a unitary school system in *Henry B. Ayers, et al. v. Western Line Consolidated School District*, Civil Action No. GC 661-S on the docket of the United States District Court for the Northern District of Mississippi.

XIII

On January 21, 1970, a decree was entered in *Ayers* adopting the school desegregation plan of the Department of Health, Education and Welfare which provides in relevant part:

Staff members who work directly with children, and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed and otherwise treated without regard to race color, or national origin.

If there is to be a reduction in the number of principals, teachers, teacher-aides, or other professional staff employed by the school district which will result in a dismissal or demotion of any such staff members, the staff member to be dismissed or demoted *must be selected on the basis of objective and reasonable non-discriminatory standards, from among all the staff of the school district*. In addition if there is any such dismissal or demotion, no staff vacancy may be filled through recruitment of a person of a race, color, or national origin different from

that of the individual dismissed or demoted, until each displaced staff member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so.

Prior to such a reduction, the school board will develop or require the development of nonracial objective criteria to be used in selecting the staff member who is to be dismissed or demoted. These criteria shall be available for public inspection and shall be retained by the school district. The school district also shall record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available upon request to the dismissed or demoted employee.

XIV

Upon information and belief defendants have violated the above cited order: 1) Plaintiffs-intervenors and members of their class are as qualified or more qualified than many of the white teachers who have obtained contracts for the 1971-72 and 1972-73 school years; 2) Defendants have failed and refused to objectively consider the qualifications of all teachers in the defendant school district as a basis for determining which teachers were to be dismissed prior to the dismissal of plaintiffs-intervenors and members of their class; 3) Defendants will hire and have hired white teachers with qualifications and experience equivalent to or inferior to that possessed by plaintiffs-intervenors and the members of their class; 4) Defendants have recruited and employed teachers new to the system for alleged vacancies without first considering the qualifications of plaintiffs-intervenors and members of their class; 5) Defendants have failed to develop objective criteria to be used in selecting staff members to be dismissed or demoted.

XV

The teaching records of plaintiffs-intervenors and members of their class have been excellent, and the Boards' decision not to renew their contracts was based solely on the race of plaintiffs-intervenors and members of the plaintiff class, and violates their rights assured by the equal protection clause of the Fourteenth Amendment to the United States Constitution, the Thirteenth Amendment to the United States Constitution and the above cited order of the United States District Court.

SECOND CAUSE OF ACTION

XVI

Upon information and belief, plaintiff-intervenor Bessie Givhan and members of her class B were not rehired by defendants because plaintiff-intervenor Givhan and members of her class B exercised their rights of freedom of speech and freedom to petition government for redress of grievances as guaranteed by the First and Fourteenth Amendments to the United States Constitution. As such, the refusal of defendants to rehire plaintiff and members of the plaintiff class B violates their rights of free speech and academic freedom under the First and Fourteenth Amendments to the United States Constitution.

XVII

On December 1, 1970 plaintiff-intervenor Givhan was ordered by Defendant James S. Leach to administer the Our Development Achievement Test to her homeroom class. Ms. Givhan objected to giving the test because of other pressing school duties and requested that the guidance counselor give the test. However, at the insistence of Defendant Leach, plaintiff Givhan administered said test on that date.

XVIII

Throughout the school year 1970-71, plaintiff-intervenor Givhan made several request of Defendant Leach which she felt to be in the best interest of the school and the student body, among which were: (see Attachment A)

- (a) that qualified Blacks be promoted from within the rank of the lunchroom personnel rather than hiring a white supervisor from outside;
- (b) that Black NYC students not be given merely menial assignments, that they be given the same type jobs in the office of the Principal as was given to white students;
- (c) that favoritism not be shown to certain students; and
- (d) that the office staff be integrated.

XIX

During the first week in May, Ms. Givhan distributed to the teachers of the Glen Allen School a list of grievances developed by the Black teachers of the Western Line Consolidated School District.

XX

Also, during the first week in May, Ms. Givhan and other Black teachers requested and was granted a meeting with the Western Line Board members at which meeting said grievances were presented. (see Attachment B)

XXI

On May 3, 1971, Ms. Givhan circulated a bulletin to the teachers of the Glen Allen School stating that a civil

rights attorney would be meeting with the teachers of Western Line Consolidated School District on May 14, 1971.

XXII

On May 17, 1971 contracts were issued to the teachers who had been selected to teach at the Glen Allen School for the 1971-72 school year. Although plaintiff had been evaluated and rated as being a good teacher, she was not given a contract nor was she told why her contract had not been renewed. (see Attachments C, D & E)

XXIII

Plaintiff made several inquiries as to why her contract was not renewed. Finally on July 38, 1971 she received a letter from Defendant C. L. Morris, Superintendent of Western Line Consolidated School District, listing as the reasons for Defendants failure to rehire plaintiff, the following: (see Attachment F)

- (a) a flat refusal to administer standardized national tests to the pupils in her charge;
- (b) an announced intention not to co-operate with the administration of the Glen Allen Attendance Center;
- (c) an antagonistic and hostile attitude toward the administration of the Glen Allen Attendance Center throughout the school year.

XXIV

Defendants' reasons listed for their failure to renew Ms. Givhan's contract were nothing more than a malicious, conspiratorial attempt to conceal the real reasons for her discharge—her activities as listed in paragraphs seventeen (17) through twenty-one (21).

XXV

The refusal of defendants to rehire Ms. Givhan and members of the plaintiff class was arbitrary, capricious, unreasonable and not based on any reasonable standard relating to the functions of a teacher in the Western Line Consolidated School District. As such, the refusal violates the rights of plaintiffs and members of the plaintiff class to due process and equal protection assured by the Fourteenth Amendment to the United States Constitution.

XXVI

The refusal of defendants to rehire plaintiffs and members of plaintiff Givhan's class was based on the race of said plaintiff and said plaintiff's protest against racial discrimination and is therefore in violation of their rights under 42 U.S.C. §§ 1981 and 1983 and the First and Thirteenth Amendments to the United States Constitution.

THIRD CAUSE OF ACTION

XXVII

Defendants have discriminated against plaintiffs-intervenors and other Black faculty and staff of the defendant school district in the following respects:

- (1) they have demoted and/or dismissed Black principals, administrators, coaches, teachers and other Black staff and personnel.
- (2) they have declined to promote or employ qualified Blacks for openings and have gone outside the system to recruit whites for such openings.

XXIV

Said actions by defendants violate the rights of plaintiffs-intervenors and the classes of Blacks they represent to equal employment opportunities guaranteed under the Thirteenth and Fourteenth Amendments to the United States Constitution and 42 U.S.C.A. §§ 1981 and 1983.

EQUITY

XXV

By virtue of the action of defendants described above in paragraphs eight (8) through twenty-four (24), plaintiffs-intervenors and the classes they represent are suffering irreparable injury, loss and harm. Plaintiffs-intervenors and their classes have no plain, adequate or complete remedy at law to redress the deprivations of their rights. Any other relief would be attended by such uncertainties and delays as to deny substantial relief and would cause plaintiffs-intervenors and their classes further irreparable injury, damage, vexation and inconvenience. Unless this Court grants the requested relief, plaintiff-intervenors and their classes will continue to suffer irreparable injury.

WHEREFORE, plaintiffs-intervenors respectfully pray that this Court:

1. Issue an injunction requiring the defendants, their agents, employees, successors, attorneys and those acting in concert and participation with them to offer plaintiffs-intervenors and members of their classes a contract in the Western Line Consolidated School District at the school and position at which they formerly were employed, in accordance with their qualifications and experience and without regard to race or color, and to continue such contracts without regard to the exercise by teachers in

the Western Line Consolidated School District of rights protected by the First and Fourteenth Amendments.

2. Issue an injunction prohibiting the defendants, their agents, employees, successors, attorneys and those acting in concert and participation with them from firing and refusing to rehire teachers employed by the Western Line Consolidated School District for arbitrary, capricious or unreasonable cause or reasons not based on any reasonable standards relating to the functions of teachers in the Western Line Consolidated School District.

3. Issue an injunction prohibiting the defendants, their agents, employees, successors, attorneys and those acting in concert and participation with them from engaging in the unlawful practices described in paragraph XI and XII and from continuing other practices shown to be in violation of 42 U.S.C.A. §§ 1981, 1983, 2000(e) and other applicable law.

4. Issue an order requiring defendants to reimburse plaintiff-intervenors and the classes they represent for all back pay and other allowances and privileges which they would have received but for their demotions, dismissal and/or failure to receive promotions.

5. Award plaintiff-intervenors, and the classes they represent, punitive damages in such amount as will insure and protect their rights against further encroachment by defendants.

6. Enjoin defendants from dismissing or directing any Black faculty member without prior application to and approval of this court.

7. Enjoin defendants to establish a bi-racial committee to oversee and otherwise superintend faculty dismissals, demotions, hirings and promotions.

8. Allow plaintiff-intervenors and their classes costs herein and all necessary expenses of the litigation, in-

cluding reasonable attorneys fees and all other such relief as may be equitable, just and proper.

Respectfully submitted,

/s/ Nausead Stewart
 NAUSEAD STEWART
 MELVYN R. LEVENTHAL
 FRED L. BANKS, JR.
 ANDERSON, BANKS, NICHOLS
 & LEVENTHAL
 Post Office Drawer 290
 Jackson, Mississippi 39205

Attorneys for Plaintiff-Intervenors

ATTACHMENT A
 WESTERN LINE CONSOLIDATED
 SCHOOL DISTRICT
 GLEN ALLAN ATTENDANCE CENTER
 Glen Allan, Mississippi 38744

December 7, 1970

Mr. C. L. Morris, Superintendent
 Western Line Consolidated School District
 Avon, Mississippi

Dear Mr. Morris:

I was handed a list of requests from Mrs. Givhan recently, and some of these were reasonable requests for supplies, etc., but some were unreasonable in my opinion.

For instance, she wanted the Black N.Y.C. girls to help with the office work instead of dusting and cleaning for which they were hired. She was very loud and arrogant in expressing her opinion of this. Mrs. Givhan is in my office every day or so making this type demands.

A few days later she came to my office very upset about Mrs. Maddox placing a white woman in the cafeteria who also takes up tickets and sells milk. She said that we were prejudiced by placing a white woman in the "choice" position of the cafeteria.

Sincerely,

/s/ James S. Leach
 JAMES S. LEACH

ATTACHMENT B

REQUESTS OF THE CONCERNED TEACHERS
OF THE WESTERN LINE SCHOOL DISTRICT

1. Evaluation sheets prepared by the principal of each school on the teachers serving under him should be prepared in duplicate, reviewed with the individual teacher, initialed by the teacher, and a carbon copy of the report given to the teacher prior to submitting the evaluation sheet to the superintendent of education of the district.
2. Evaluation sheet should be prepared on each teacher at least quarterly, and reviewed as outlined in item no. 1.
3. Any complaints lodged against a teacher, by principal, fellow teacher, parent, student, or any other citizen should be reviewed in the presence of the teacher complained against immediately upon receipt of the complaint, whether in writing or oral.

Answer to 1, 2 and 3, taken from the Teacher Handbook, Page 12. The principals have made an evaluation of the teachers.

THE BOARD OF TRUSTEES OF
WESTERN LINE SCHOOL DISTRICT
TEACHER EVALUATION

It is the policy of the Board of Trustees that each teacher shall at least annually formally evaluate his work, himself and that, likewise, at least annually each teacher shall be formally evaluated by an administrator (his principal, assistant principal or supervisory staff in the central office). The formal evaluation should be accomplished not later than April 1 each year beginning with the 1970-71 session. The evaluation should be concluded with a conference between the teacher and the

administrator or administrators to compare their own evaluations.

Three copies of each evaluation shall be made: one set to become the property of the teacher; one to be placed under security in the principal's office; and one set under security in the superintendent's office.

The administrator should begin getting evidence for evaluation beginning at the first of the school year. Judgments should be based on all the broad contacts the administrator has with the teacher, but there should be as many classroom visits as possible in addition. To the maximum extent possible, objective data should be used both by the teacher and administrator to support judgments reached. For example: records can be gotten of the use of the library by the students taught; likewise, improvement of pupils on standard tests; the teacher can cite activities in professional activities in professional associations and readings done for improvement, etc.

The establishing of performance targets by both parties is an extremely important part of the entire evaluative process.

The evaluation includes but cannot be limited to the evaluative instrument. The teacher's job is too comprehensive for that.

The sole purpose of evaluation is the improvement of instruction by revealing strengths and weaknesses of personnel. The results of it should influence the in-service program. It should make the administrators more aware of what is taking place in the classrooms. It should make teachers more responsive to the opportunities they have in meeting needs of pupils. It should help in determining specific interests and competencies among staff members. It should provide evidence for dismissal where this is an issue. In short, evaluation

is a prime essential to both individual and organizational improvement.

4. It appears that there are presently dual standards for determining whether teachers may obtain outside employment while under a teacher contract with this school district. At the present time, there are at least two white teachers who have outside employment, while all requests by black teachers have been denied.

4. The dual employment has not been enforced where it did not interfere with the teacher's performance as a teacher. Driving a bus does. A teacher driving a bus does not arrive at school at 8:00 A.M. or stay until 3:45 as the other teachers do. He can not stay to a faculty meeting if there is one after school, nor can he have duty schedule that others do. This was brought drastically to mind, after the mid-term last year. Some of the teachers were late to school almost every day, and other teachers had to be in their classrooms.

There are more blacks holding two jobs than whites.¹ Eddie Chambers has a wholesale candy distributorship, A. T. Williams has a grocery store, Cicero Hall works at the A & P Store, James Ledbetter drives a cab, Dolly Hodges keeps extra books, William Givhan does income tax work to name a few.

5. The superintendent of education of this district refers to Mr. Wayne Tullos as the elementary principal of Riverside School; however, since he is also Title (1) Coordinator, this conflicts with the court order under which this school is presently operating.

5. The superintendent of education of this district has not referred to Mr. Tullos as anything except Title I Coordinator. Mr. Grisham has referred to him and been corrected.

6. Is Mr. Tullos the elementary principal? If not, who is?

6. No. There is no elementary principal at Riverside.

7. Teachers should be placed teaching grades or subjects for which they are certified to teach, and not assigned to other fields, particularly where there are uncertified people presently working in areas where there are available certified teachers assigned to areas in which they are uncertified.

7. The assignment of teachers in their field has been given great consideration. To get necessary white-black ratios, some were out-of-field this year. What is a qualified teacher?

8. Only teachers who are qualified to teach in a particular area should be assigned to the State Text Book Review Committee.

8. This was done, except foreign languages. None were available.

9. On the basis of seniority, within the system, teachers should be given preference on subject matter, and the school to which they are to be assigned, within the limits of the Court order.

9. This is done as nearly as possible. Subject area, color, ability and need are the factors in placement of teachers.

10. The salary penalty for sick leave should be applied equally to black teachers and white teachers. At the present time, some teachers are docked \$10.00 per day for each sick day in excess of ten days per school year. There are certain white teachers who have been paid their full salary while taking sick days in excess of ten per school year.

10. This is done for whites and blacks. Two teachers signed contracts knowing they were pregnant.
11. Unless a substitute teacher is hired to replace a teacher out on sick leave, the \$10.00 should not be deducted from salary.
11. To be fair—each teacher is charged the \$10 if he misses. If the teacher is not there, he has not performed his duty, whether a substitute is hired or not.
12. When a teachers' salary is suspended for sick days in excess of ten per session, what is done with the portion of the teachers salary which comes from the State?
12. Most of this can be taken from the district supplement. If not, there is an adjustment on the sheets made by the County Superintendent of Education.
13. All administrative personnel, should be paid the same salary for comparable qualifications and experience.
13. They are, as nearly as possible.
14. If any assistant principals are assigned additional teaching duties, all assistant principals should be required to accept that additional burden.
14. We have one qualified assistant principal. Other assistant principals in order to receive the Minimum Program money have to teach in their field $\frac{1}{2}$ day. The size of the school has another thing to do with this.
15. For what period of time has the superintendent of the Western Line School District been hired?
15. Until July, 1973.
16. In classroom situations where there is a supervising teacher and an assistant teacher, blacks should be assigned as supervisors as well as assistants. At the

present time, in all dual teaching situations only whites are assigned as supervising teachers.

16. Is this question trying to get ready for next year? We have a single teacher in each classroom, except a remedial classroom with two black teachers.
17. The curriculum of the Western Line School District should be brought up to date to fit the needs of the students.
17. It is constantly being changed.
18. There should be a PTA or PTSA organization at each school in the district.
18. The PTA is an organization of the parents and teachers. It is not the duty of the administration to say they must have or not have a PTA at each school. If the concerned teachers want a PTA, they should help organize it.
19. What ratio (black and white) is used in hiring Titled (1) teachers?
19. Most of the Title I personnel are blacks.
20. What are the qualifications for a principal in the Western Line School District?
20. A Principal must have 12 hours of Administration Courses, as required by the State Accrediting Commission. A "AA" certificate is desirable, but not required.
21. What are the qualifications for assistant principal in the Western Line School District?
21. The same as principal.
22. It is our understanding that the superintendent has contacted a white individual outside the school system to become Director of Counselors. There are pres-

ently within the system qualified black counselors. Why is the superintendent seeking a Director of Counselors from outside the system?

22. When he recommends a guidance counselor, the person will be competent, fully qualified and an emotionally stable person.

23. What are the qualifications for Elementary Supervisor at Glen Allan School?

23. Qualifications for Elementary Supervisor at Glen Allan are the same as at each of the other schools. Mrs. Worthington has been an elementary supervisor in the district for over 10 years.

24. The position of ESEA Director is open. Who will fill it.

24. Is it open? Applications will be processed and considered, if it is.

25. At least one weeks notice should be given to Titled (1) programs. This information should be made available to the newspapers, radio stations, TV stations, students, teachers and parents at least one week prior to the program.

25. The final approval of the program was not received until long after it was started. It was given to papers.

26. The Titled (1) advisory committee should be consulted in the pre-planning of Titled (1) Programs.

26. The Title I Committee helped in the planning of the program. This was not typed until after the committee met. Changes that were made were at the State Department level.

27. Baccalaureate services should be held at all schools in the district.

27. Does Greenville have Baccalaureate services?

28. All schools in the district should have junior-senior proms.

28. This is an individual school choice. It is our understanding that all three schools have proms scheduled for this year.

29. All schools in the district should be allowed to have student clubs, organizations, year books, newspapers and other extra curricular activities.

29. No school has been kept from having school clubs, organizations, year books, newspapers, or other extra curricular activities. Teacher laziness in not wanting to be a sponsor could be the reason.

30. When do the teachers receive *Contracts* for the 1971-72 school year.

30. Have you considered that while special meetings are held, and answers to questions are being made that the contracts could have been typed and the trustees could have been considering the teacher recommendations.

31. Why have not the teachers received service awards for the past two years.

31. Lack of cooperation from the teachers and turnoil have made the giving of service pins of secondary importance.

32. Who get incentive pay from the school fund? How much is the incentive pay given special teachers?

32. This question implies that certain teachers receive extra as incentive pay. The district received \$23,114 Incentive Grant. The district supplements the MEP Funds for teacher salaries. This money is used to help with this supplement. No teacher is supplemented above the regular supplement.

33. What teachers personally own Materials as record players, 16MM projectors, filmstrip machines etc.? Equipment does exist in schools, is hoarded in special classrooms and is not shared by fellow-teachers, if such owned by the Western Line District.

33. Certain materials are owned by teachers. Some equipment is assigned on an individual basis by the principal, and the other equipment is centrally located in each school where it can be obtained by using correct procedures.

EMPLOYEE EVALUATION FORM

NAME: Mrs. Bessie Givhan DATE: 4/16/71

DEPARTMENT: Junior High JOB TITLE: Teacher - English

Purposes of this Employee Evaluation:

To take a personal inventory, to pin-point weaknesses and strengths and to outline and agree upon a practical improvement program. Periodically conducted, these Evaluations will provide a history of development and progress.

Instructions:

Listed below are a number of traits, abilities and characteristics that are important for success in business. Place an "X" mark on each rating scale, over the descriptive phrase which most nearly describes the person being rated. (If this form is being used for self-evaluation, you will be describing yourself.)

Carefully evaluate each of the qualities separately.

Two common mistakes in rating are: (1) A tendency to rate nearly everyone as "average" on every trait instead of being more critical in judgment. The rater should use the ends of the scale as well as the middle, and (2) The "Halo Effect," i.e., a tendency to rate the same individual "excellent" on every trait or "poor" on every trait based on the overall picture one has of the person being rated. However, each person has strong points and weak points and these should be indicated on the rating scale.

ACCURACY

is the correctness of work duties performed.

				X	
Makes frequent errors.	Careless; makes recurrent errors.	Usually accurate; makes only average number of mistakes.	Requires little supervision; is exact and precise most of the time.	Requires absolute minimum of supervision; is almost always accurate.	

ALERTNESS

is the ability to grasp instructions, to meet changing conditions and to solve novel or problem situations.

				X	
Slow to "catch on."	Requires more than average instructions and explanations.	Grasps instructions with average ability.	Usually quick to understand and learn.	Exceptionally keen and alert.	

CREATIVITY

is talent for having new ideas, for finding new and better ways of doing things and for being imaginative.

				X	
Rarely has a new idea; is unimaginative.	Occasionally comes up with a new idea.	Has average imagination; has reasonable number of new ideas.	Frequently suggests new ways of doing things; is very imaginative.	Continually seeks new and better ways of doing things; is extremely imaginative.	

DEPENDABILITY is the ability to do required jobs well with a minimum of supervision.

Requires close supervision; is unreliable.	Sometimes requires prompting.	Usually takes care of necessary tasks and completes with reasonable promptness.	<input checked="" type="checkbox"/> Requires little supervision; is reliable.	Requires absolute minimum of supervision.
--	-------------------------------	---	---	---

DRIVE is the desire to attain goals, to achieve.

Has poorly defined goals and acts without purpose; puts forth practically no effort.	Sets goals too low; puts forth little effort to achieve.	Has average goals and usually puts forth effort to reach these.	<input checked="" type="checkbox"/> Strives hard; has high desire to achieve.	Sets high goals and strives incessantly to reach these.
--	--	---	---	---

JOB KNOWLEDGE is the information concerning work duties which an individual should know for a satisfactory job performance.

Poorly informed about work duties.	Lacks knowledge of some phases of work.	Moderately informed; can answer most common questions.	<input checked="" type="checkbox"/> Understands all phases of work.	Has complete mastery of all phases of job.
------------------------------------	---	--	---	--

QUANTITY OF WORK is the amount of work an individual does in a work day.

Does not meet minimum requirements.	Does just enough to get by.	Volume of work is satisfactory.	<input checked="" type="checkbox"/> Very industrious; does more than is required.	Superior work production record.
-------------------------------------	-----------------------------	---------------------------------	---	----------------------------------

STABILITY is the ability to withstand pressure and to remain calm in crisis situations.

Goes "to pieces" under pressure; is "jumpy" and nervous.	Occasionally "blows up" under pressure; is easily irritated.	Has average tolerance for crises; usually remains calm.	<input checked="" type="checkbox"/> Tolerates most pressure; likes crises more than the average person.	Thrives under pressure; really enjoys solving crises.
--	--	---	---	---

COURTESY is the polite attention an individual gives other people.

<input checked="" type="checkbox"/> Blunt; discourteous; antagonistic.	Sometimes tactless.	Agreeable and pleasant.	Always very polite and willing to help.	Inspiring to others in being courteous and very pleasant.
--	---------------------	-------------------------	---	---

FRIENDLINESS is the sociability and warmth which an individual imports in his attitude toward customers, other employees, his supervisor and the persons he may supervise.

Very distant and aloof.	Approachable; friendly once known by others.	Warm, friendly, sociable.	Very sociable and out-going.	<input checked="" type="checkbox"/> Extremely sociable; excellent at establishing good will.
-------------------------	--	---------------------------	------------------------------	--

PERSONALITY is an individual's behavior characteristics or his personal suitability for the job.

Personality unsatisfactory for this job.	Personality questionable for this job.	<input checked="" type="checkbox"/> Personality satisfactory for this job.	Very desirable personality for this job.	Outstanding personality for this job.
--	--	--	--	---------------------------------------

PERSONAL APPEARANCE is the personal impression an individual makes on others. (Consider cleanliness, grooming, neatness and appropriateness of dress on the job.)

Very untidy; poor taste in dress.	Sometimes untidy and careless about personal appearance.	Generally neat and clean; satisfactory personal appearance.	Careful about personal appearance; good taste in dress.	<input checked="" type="checkbox"/> Unusually well groomed; very neat; excellent taste in dress.
-----------------------------------	--	---	---	--

PHYSICAL FITNESS is the ability to work consistently and with only moderate fatigue. (Consider physical alertness and energy.)

Tires easily; is weak and frail.	Frequently tires and is slow.	Meets physical and energy job requirements.	<input checked="" type="checkbox"/> Energetic; seldom tires.	Excellent health; no fatigue.
----------------------------------	-------------------------------	---	--	-------------------------------

ATTENDANCE is faithfulness in coming to work daily and conforming to work hours.

Often absent without good excuse and/or frequently reports for work late.	Loss in attendance and/or reporting for work on time.	Usually present and on time.	<input checked="" type="checkbox"/> Very prompt; regular in attendance.	Always regular and prompt; volunteers for overtime when needed.
---	---	------------------------------	---	---

HOUSEKEEPING is the orderliness and cleanliness in which an individual keeps his work area.

Disorderly or untidy.	Some tendency to be careless and untidy.	Ordinarily keeps work area fairly neat.	Quite conscientious about neatness and cleanliness.	<input checked="" type="checkbox"/> Unusually neat; clean and orderly.
-----------------------	--	---	---	--

OVERALL EVALUATION in comparison with other employees with the same length of service on this job:

Definitely unsatisfactory.	Substandard but making progress.	Using an average job.	X	Definitely above average.	Outstanding.
----------------------------	----------------------------------	-----------------------	---	---------------------------	--------------

COMMENTS

Rated by ✓/s/ James B. Leach Principal ✓/s/

(If not used as a self-evaluation form, the employee should also have

A copy of this Report has been ~~given to the~~ given to the and has been discussed with

180 Donald R. Gishen

Defined for the α

ATTACHMENT D

WESTERN LINE CONSOLIDATED SCHOOL DISTRICT
GLEN ALLAN ATTENDANCE CENTER
Glen Allan, Mississippi 38744

April 16, 1971

Mr. Morris:

This evaluation was made considering Mrs. Givhan's teaching performance only. As you will note, she has a good rating as far as classroom teaching is concerned. However, Mrs. Givhan has been arrogant toward me and has placed pressure and demands on me at various times throughout the year.

She has also made derogatory remarks about you, and, on several occasions has agitated Mrs. Hodges about her assignment of students and other phases of her work.

/s/ James S. Leach

ATTACHMENT E

GLEN ALLAN ATTENDANCE CENTER
Glen Allan, Mississippi

May 1, 1971

Mr. C. L. Morris, Superintendent
Western Line Consolidated School District
Avon, Mississippi

Dear Mr. Morris:

Mrs. Bessie Givhan, Junior High English Teacher, is not recommended to return to Glen Allan Attendance Center for the school year 1971-72.

Mrs. Givhan is a competent teacher; however, on many occasions she has taken an insulting and hostile attitude toward me and other administrators. She hampers my job greatly by making petty and unreasonable demands. She is overly critical for a reasonable working relationship to exist between us. She also refused to give achievement tests to her homeroom students.

I feel that it would be in the best interest of our school and community that Mrs. Givhan not return to our school.

Sincerely yours,

/s/ James S. Leach
JAMES S. LEACH,
Principal

ATTACHMENT F

WESTERN LINE CONSOLIDATED SCHOOLS
Avon, Mississippi 38723

C. L. Morris
Superintendent

July 28, 1971

Mrs. Bessie B. Givhan
1260 Holmes Street
Greenville, Mississippi 38701

Dear Mrs. Givhan:

Please excuse my delay in replying to your letter of July 14. I have been on a rather short vacation.

Under the statutory procedure for hiring teachers, new contracts are submitted to teachers only when they have been recommended by the principal, recommended by the superintendent and approved by the Board of Trustees. You were not recommended for a new contract by the principal of the Glen Allen Attendance Center where you are assigned.

Our records reflect that the reason why you were not recommended for re-hiring were: (1) a flat refusal to administer standardized national tests to the pupils in your charge; (2) an announced intention not to co-operate with the administration of the Glen Allan Attendance Center; (3) and an antagonistic and hostile attitude to the administration of the Glen Allan Attendance Center demonstrated throughout the school year.

At your request, a copy of this letter is being furnished to Mr. C. J. Duckworth, Executive Secretary, Mississippi

Teachers Association-N.E.A., 1328 Lynch Street, Jackson,
Mississippi 39203.

Yours very truly,

/s/ C. L. Morris
C. L. MORRIS, Supt.
Western Line Consolidated School District

CLM/cmr.

[Certificate of Service Omitted]

B. Answer and Motion to Strike, dated October 5, 1973

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

[Title Omitted in Printing]

**ANSWER AND MOTION TO STRIKE
MOTION TO STRIKE**

Defendants move to strike the following from the Intervention Complaint for Injunctive and other Relief: (1) paragraph VI; and, (2) the words, "and members of her Class A", "and members of their class A", "and members of their class", "members of the plaintiff class", "and members of her class B", "and members of the plaintiff class B", wherever said words appear; and, (3) paragraph XXVII, and in support of their motion, respectfully show that in the Memorandum of Opinion rendered in *Mrs. Bessie Givhan, et al. v. The Board of Education of Western Line Consolidated School District, et al.*, Civil Action No. GC 73-29-S upon the docket of this Court, under date of August 31, 1973, this Court held:

"The court does not believe that the rights sought to be enforced by plaintiffs against the school District give rise to a class action. Especially this is true where the number of persons who could be involved is limited, and the complaints would not be common to all parties. Each individual's complaint will involve facts and circumstances peculiar to the individual."

Pages 6-7.

Defendants show that the Intervention Complaint for Injunctive and other Relief is, except for the caption, virtually identical to the Complaint filed in *Givhan, supra*, that the plaintiffs are the same, and that the ruling of this Court denying the plaintiffs the right to maintain a class action is binding in this action upon plaintiff-intervenors.

ANSWER

FIRST DEFENSE

The Intervention Complaint for Injunctive and other Relief fails to state a claim against the defendants upon which relief can be granted.

SECOND DEFENSE

1. Defendants admit jurisdiction of this Court under the order entered in *Givhan, supra*, and therefore need not respond to paragraphs I and II.

2. Defendants admit the allegations of paragraphs III-V, except that they deny that the employment of any plaintiff-intervenor was terminated or that any were dismissed. Defendants allege that each was employed on a year to year contract without tenure, that none was under any legal obligation to continue in employment beyond the contract period, and that in each instance the then current contract of each plaintiff-intervenor expired of its own terms.

3. Defendants do not respond to the allegations of paragraph 6, for the reason that the issues therein raised have been resolved adversely to plaintiff-intervenors' claims in *Givhan, supra*.

4. Defendants deny the allegations of paragraph VII except they admit that Western Line Consolidated School District of Washington and Issaquena Counties, Missis-

sippi, is a defendant in this cause, that H. T. COCHRAN, CHALMERS E. HOBART, WINON STARNES, CLYDE NICHOLS, and W. T. EIFLING are the present members of the Board of Trustees of that district, and that as such are responsible for maintaining and supervising the operation of the district schools and for recommending teachers to be hired by the Washington County Board of Education, a distinct and separate entity. None of the defendants named in the Intervention Complaint are parties to any contract with any teacher, including plaintiff-intervenors.

5. Defendants deny the allegations of paragraph VIII and IX, except that they admit GIVHAN was under contract to teach for the school year, 1970-71, that she was notified in May of 1971 she would not be asked to contract for the succeeding year, that HODGES and BUTLER were under contracts to teach during the school year 1971-72, and that they were notified during or about March of 1972 that they would not be asked to contract for the succeeding year.

6. Defendants deny the conclusions of law and fact contained in paragraphs X-XIII, except that they admit entry of an order in this cause on 21 January 1970, which order speaks for itself.

7. Defendants deny the allegations of paragraph XIV. They show that in compliance with the order of 21 January 1970, the entire district was divided into a northern and a southern zone with all elementary students in the former zone assigned to O'Bannon center and all in the latter to Glen Allan center, and that all high school students were assigned to Riverside center, in the geographical middle of the district. They allege that this action was taken in the middle of the 1969-1970 school year, and that effective with the second semester of that year, the "dual system", if any existed, was completely eliminated. They show further that this arrangement did

not work to the satisfaction of either plaintiffs or defendants, and that on 29 June 1970 a consent order was entered creating the present organization of the district into three attendance zones. They allege that since the second semester of the 1969-1970 year, all "vestiges" of the former system have been eliminated "root and branch", that all re-assignment and re-alignment of teaching and professional personnel in this reorganization of the district to comply with the Court's orders were accomplished prior to the commencement of the 1970-1971 school year, and that the failure to re-hire plaintiff-intervenors had no relation to the order directing reorganization of the district. Defendants specifically allege that the acts or failure to act upon which plaintiff-intervenors rely occurred after the reorganized district had been in operation for at least one and one half full school years, and that none of them has been or claims to have been demoted or dismissed.

8. Defendants deny the allegations of paragraphs XV and XVI.

9. With references to paragraphs XVII through XXIII, the allegations are admitted, except:

a. All teachers in the appropriate class ranges were required to administer the achievement test referred to in paragraph XVII. GIVHAN flatly refused to do so, and did not in fact administer the test. Upon information and belief, GIVHAN refused to comply with the direct order of the school administration that the test be administered because of her personal belief that it might discriminate against blacks.

b. Defendants have no knowledge nor means of knowledge as to who actually developed the list of grievances referred to in paragraph XIX nor as to any favoritism shown "certain students", and deny the related allegations. Defendants allege that GIVHAN violated district

policy that all pupils be treated alike, regardless of race, specifically in that she gave failing grades to white students for correct work.

c. Defendants deny GIVHAN was not given the reasons why she was not tendered a new contract, and show that the reasons were in fact reduced to writing in attachment F to the intervention complaint. They allege that this plaintiff was hired as a classroom teacher and that the allegations of paragraphs XVII through XXIII affirmatively show the accuracy of reasons (b) and (c) of paragraph XXIII, quoted from attachment F. They allege that her constant concern with matters outside the scope of her employment was disruptive and not in the best interest of the educational process. They show that although a few of the "demands" made by this plaintiff-intervenor were reasonable and were granted, by far the greater number of them were outside of areas of her responsibility and were unreasonable.

10. Defendants deny the allegations of paragraphs XXIV through XXVI and specifically point out that at the same time plaintiff-intervenor GIVHAN was not selected for re-employment, her husband (also a black) was promoted to assistant principal.

11. Defendants do not respond to the allegations of paragraphs XVII and XVIII for the reason that they relate to a class action, covered by the Motion to Strike filed herewith, on which this Court has already ruled adversely to plaintiff-intervenors contention in *Givhan, supra*.

12. Defendants deny the allegations of paragraph XV and deny that plaintiff-intervenors are entitled to relief in this action.

THIRD DEFENSE

Employment and re-employment of teachers is governed by Mississippi law, and they are employed under succes-

sive one-year contracts. Defendants agree that they may not refuse to re-hire a teacher on the basis of race, religion, or because of assertion of constitutionally protected rights, each case being dependent upon its own facts. However, defendants allege that they are charged with responsibility for maintaining high educational standards, and that in the discharge of this responsibility they have a discretion vested in them by law and are charged with the duty of eliminating teachers who are ineffective, who are uncooperative, who fail to implement district policies or refuse to do so, who refuse to perform duties assigned to them and indiscriminately to all other teachers, or who fail to meet reasonable standards of integrity.

Defendants allege that reasons for their failure to re-hire plaintiff-intervenor GIVHAN abundantly appear in her own intervention complaint and in the Second Defense, above. Plaintiff-intervenor HODGES, who had been employed as a counselor to young pupils, was not re-hired (among other reasons) for sending forged recommendations to Atlanta University in connection with her application for summer work, not considered by defendants as compatible with minimal standards of integrity required of a person expected to set an example for and to counsel pupils of the district. Plaintiff-intervenor BUTLER was not re-hired because she is ineffective and a marginal teacher, the dominating purpose of defendants being to upgrade the professional standards of district teachers.

FOURTH DEFENSE

The intervention complaint affirmatively shows that plaintiff-intervenors were not demoted or dismissed during the term of any contract to teach, but only that they were not re-hired. Defendants are under no contractual obligation to plaintiff-intervenors to re-hire them or any

of them, and plaintiff-intervenors are under no contractual obligation to perform duties beyond the term of their former respective contracts. There is no statutory or other duty to give notice to teachers of any intention not to re-hire, or to afford any evidentiary hearing prior to a decision not to re-hire. However, any teacher believing that he or she was not re-hired because of race, religion, sex or the assertion of any constitutionally protected right or rights, has the right to request and is entitled to an evidentiary hearing. None of the plaintiff-intervenors has requested any such evidentiary hearing, they have not exhausted their procedural rights before the defendant board of trustees, and this action is premature and should be dismissed.

/s/ J. Robertshaw
 J. ROBERTSHAW
 P. O. Drawer 1498
 Greenville, Mississippi 38701
 (601) 335-6181
 Attorney for named defendants

[Certificate of Service Omitted]

IV. OPINIONS AND JUDGMENTS

A. District Court's Memorandum of Decision, dated December 18, 1973

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

[Title Omitted in Printing]

MEMORANDUM OF DECISION

The plaintiff-intervenors (plaintiffs), on March 16, 1973, filed with the clerk of this court a separate action against the defendants in the action sub judice, seeking redress for certain wrongs said to have been inflicted upon them by defendants, when plaintiffs were not retained on the faculty of defendant school district in the years 1971-72 and 1972-73. *Givhan, et al. v. The Board of Education of the Western Line Consolidated School District, et al.*, No. GC 73-29-S.

After a full consideration of the matter, the court concluded that it was not proper for plaintiffs to maintain a separate action in this school desegregation case, but, that they should seek redress in the action sub judice, since the basis of their complaint was the alleged violation by defendants of the court's desegregation order entered in this action on January 21, 1973.

Accordingly, the court, on August 31, 1973, entered an order dismissing the complaint. At the same time the court granted leave to plaintiffs to seek a vindication of their rights in the action sub judice by way of intervention.

The plaintiffs are three former black teachers in the schools of defendant school district, who claim they were dismissed from the school system in violation of the *Singleton* faculty and other staff desegregation provisions¹ incorporated in the court's said order.

Plaintiffs sought to prosecute their complaint in No. GC 73-29-S as a class action consisting of "[a]ll others similarly situated, class A consists of all Black teachers who were discharged or not rehired by the defendants for the 1971-72 and 1972-73 school years as a result of racially discriminatory, arbitrary, capricious or unlawful action by the defendants, in violation of *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211 (5th Cir. 1969); class B consists of all Black teachers who were discharged or not rehired by the defendants for engaging in activities protected by the First and Fourteenth Amendments to the United States Constitution."

In the Memorandum of Decision entered in No. GC 73-29-S, as a result of which the action was dismissed and plaintiffs were given the right to intervene in this action, the court said:

The court does not believe that the rights sought to be enforced by plaintiffs against the school district give rise to a class action. Especially this is true where the number of persons who could be involved is limited, and the complaints would not be common to all parties. Each individual's complaint will involve facts and circumstances peculiar to the individual.

The plaintiffs seek to prosecute the intervention-complaint in the action sub judice as a class action following

¹ *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211 (5th Cir. 1969).

the pattern proposed by them in No. GC 73-29-S. The defendants have moved the court to strike all allegations of class representation which are contained in the intervention-complaint.

The plaintiffs charge that the defendant school district violated the *Singleton* provisions of the court's order aforesaid, by refusing to retain them in the system for the years in question. There are probably ten other black teachers who were not retained in the system by defendant school district during the years in question.

It appears to the court that the rights of each such teacher may well be governed by a factual situation not common to that of others. The number involved is small, and each teacher who has a grievance against the school district has a forum in the action sub judice in which to enforce any right which he or she may have. The class is not such, in the judgment of the court, as meets the prerequisites of Rule 23, F.R. Civ. P.

The court will enter an order determining that the action may not be maintained as a class action, and sustaining defendants' motion to strike.

This action of the court does not, however, dispose of the right of plaintiffs to have defendants answer the interrogatories which have been propounded to them by plaintiffs.

* The motion of defendants to stay discovery will be overruled.

An appropriate order will be entered.

Dated, this the 18th day of December, 1973.

/s/ Orma R. Smith
United States District Judge

- B. The District Court's Memorandum of Decision, dated July 2, 1975, is printed as Appendix B of the Petition.
- C. The Opinion of the Court of Appeals, dated July 18, 1977, is printed as Appendix A of the Petition.
- D. The Judgment of the Court of Appeals, dated July 18, 1977, is printed as Appendix C of the Petition.
- E. The Court of Appeals' Denial of Petition for Rehearing and Suggestion for Rehearing En Banc is printed as Appendix D of the Petition.

V. SELECTED EXCERPTS FROM THE RECORD

A. Transcript of Proceedings of May 7 and 8, 1975

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

[Title Omitted in Printing]

The following proceedings were had in the United States District Court for the Northern District of Mississippi, in Greenville, Mississippi, on May 7 and 8, 1975, before The Honorable Orma R. Smith, Judge.

APPEARANCES:

For the Plaintiffs:

Honorable Fred L. Banks, Jr.
Honorable Nausead Stewart
Jackson, Mississippi

For the Defendants:

Honorable J. Robertshaw
Greenville, Mississippi

[2] (Greenville, Mississippi, Wednesday, May 7, 1975,
9:00 a.m.)

(The following transpired in open court.)

THE COURT: Be seated, please.

Ladies and Gentlemen, are you prepared to proceed this morning? Counsel for the plaintiffs, are you ready?

MR. BANKS: The plaintiffs are ready, Your Honor.

THE COURT: Mr. Robertshaw, are you prepared to proceed?

MR. ROBERTSHAW: If the Court please, the defendants are ready.

THE COURT: All right.

MR. ROBERTSHAW: May I make a statement?

THE COURT: Yes, sir.

MR. ROBERTSHAW: Pending extensive discovery in the case as to statistics—and I think that we can probably take about five minutes and agree on a set of statistics that will save a good bit of time in the trial.

THE COURT: [3] All right, sir. Do you want a recess?

MR. ROBERTSHAW: Do you want us to do it now?

THE COURT: You may confer with counsel for whatever period of time you need to get the statistics together.

(Counsel for both sides conferring off the record.)

MR. ROBERTSHAW: May I address the Court?

THE COURT: Yes, sir.

MR. ROBERTSHAW: Plaintiffs and defendants stipulate that the statistical data on the following exhibits may be taken as true for the purposes of this cause: Table 1 is a table covering the period 1969-70 school year through 1973-74, showing the number of teachers, both black and white; the number of teachers leaving at the

end of that session, both black and white; and the percentage of turnover, black and white.

Table 2 shows the population of pupils and teachers by race in the school year as reflected in the reports, shown first in October '69, which was the beginning of the 1969-70 year. Next in February of '70, after the reconstitution of the district. Then November '70 and [4] October '71, 2, 3 and 4.

Table 3 breaks the teachers down into those who were hired, not rehired, and those who did not return for other reasons, voluntary withdrawal or whatnot, plus the number of teachers hired for each session, at the end of each session.

If I may have this submitted as Exhibit I.

THE COURT: Does that tabulate what you have said to the Court?

MR. ROBERTSHAW: Yes, sir.

THE COURT: All right, let it be received.

MR. ROBERTSHAW: I have an extra one of each of the exhibits, if the Court would like to have it to follow during the course of the trial.

THE COURT: All right, hand it to the Clerk and let it be received as a stipulated document. This is a copy of what the Clerk has, is that right?

MR. ROBERTSHAW: That is correct, sir.

(Stipulated Exhibit No. 1 received into evidence.)

Exhibit No. 2 is a chart graphically showing the [5] pupil population and the teacher population, by race, for the same periods as in Table 2.

THE COURT: Table 1, you mean?

MR. ROBERTSHAW: Well, there are three tables on the first exhibit.

THE COURT: I see. Table 2, all right. Let it be received.

(Stipulated Exhibit No. 2 received into evidence.)

MR. ROBERTSHAW: Exhibit No. 3 is the mechanical—the computations showing how the number of teachers hired at the end of each session was arrived at.

THE COURT: All right, let it be received.

(Stipulation Exhibit No. 3 received into evidence.)

MR. ROBERTSHAW: I might say, for the Court's convenience, that the technique adopted by plaintiff's, with which the defendants agree, is that you take the number of teachers at the beginning of the period and subtract from that the number of teachers that left the system at the end of the year, and then deduct the net figure from the number of teachers present at the beginning of the following year. So that the derived at figure should represent the number of teachers hired.

[6] THE COURT: All right, sir.

MR. ROBERTSHAW: And Exhibit 4 is the same thing, except for Glen Allan School only.

THE COURT: All right, let it be received.

(Stipulated Exhibit No. 4 received into evidence.)

Can you stipulate as to any other facts, or does this cover the entire stipulation which is to be submitted to the court?

MR. ROBERTSHAW: The stipulated facts presently in evidence contain virtually all of the discovery that we have been into, except that it is by numbers instead of names.

And, within the discovery there have been admitted certain other facts and figures that we, that is, as defendants consider already in evidence as admissions for the purposes of this trial.

THE COURT: Well, that may be true. But I don't want to have to go through the record and search out everything that has been admitted, or the extensive discovery that has been made.

There are certain facts that have not been stipulated, [7] and as the trier of the facts now, I would like to have it brought to my attention so I won't have to go through the record and search them out myself and maybe overlook some of them.

MR. ROBERTSHAW: If the plaintiffs would indicate which facts they desire to stipulate, we would be happy to consider those. Certainly, if we have admitted it, we will stipulate it.

THE COURT: All right, anything that has been admitted upon request for admissions that has been admitted as a matter as being a true fact, I want you to state it into the record here so that I can consider it as the trier of the facts.

In other words, as a result of your discovery, either by interrogatories or requests for admissions, if certain facts have been established as not having been controverted, then I would like to have that now.

Even if you don't have it in written form, you can orally state it into the record so I can, as the trier of the facts, I can take them into consideration, because I don't want to have to go through the entire record and search out all of the facts which have been admitted by admissions or by interrogatories.

[8] MR. ROBERTSHAW: The four exhibits that are already in evidence constitute the facts developed in discovery.

THE COURT: Statistically?

MR. ROBERTSHAW: Which we desire to be stipulated to.

THE COURT: From statistics that you have?

MR. ROBERTSHAW: Yes, sir.

THE COURT: In other words, it reflects what your records shows?

MR. ROBERTSHAW: It reflects what the record shows, with certain additions to bring them up to date.

THE COURT: All right. Are there any other facts

now to be considered by the Court as being noncontested?

MISS STEWART: Yes, sir.

THE COURT: All right, give me that.

MISS STEWART: [9] We have a chart that sets out the numbers of guidance teachers which defendants have admitted in response to Plaintiffs' First Request For Admissions.

I thought it was in this file here.

THE COURT: Now, just a moment.

Miss Stewart, if you want this to get into the record, you are going to have to lift your voice so I can hear it and so the Court Reporter here can hear you as well. And when you are looking down at what you are reading your voice doesn't carry very well. So you will have to speak loud enough and distinct enough for us to get it into the record.

You say these charts that have been admitted as Exhibits 1 through 4 include all of the admitted facts with reference to the statistics?

MISS STEWART: With regard to all of the statistics except for guidance teachers, which I tried to get into the record.

THE COURT: Guidance teachers?

MISS STEWART: Yes, sir.

THE COURT: All right.

[10] MISS STEWART: In response to Plaintiffs' Request For Admissions Number 5, Appendix E(5), there is a chart which sets out the number of guidance teachers by race, certification, experience in the district, and total amount of experience, and salary, from 1969 through 1970.

The defendants have admitted these figures to be true and I would like that to go in.

THE COURT: Madam Clerk, will you locate that in the file?

MR. ROBERTSHAW: May I go to the podium and see what counsel refers to?

THE COURT: Suppose we take about a fifteen minute recess here and let both of you go through these matters and see what you can come up with in the way of documents, and whatever they are, lift them out of the record and make separate copies of them for the Court's guidance.

MR. ROBERTSHAW: I believe this is the only one that we have any problem with here. Is that correct?

MISS STEWART: We don't have any problem.

MR. ROBERTSHAW: [11] We don't have any problem, but is this the only one that you are interested in getting in the record?

MISS STEWART: Statistical information.

THE COURT: Is that correct?

MISS STEWART: Yes, sir.

THE COURT: All right, then if you don't mind let the Court Crier have your file and show him the exhibit there that you want to place in the record.

Mr. Crier, take that to the Xerox machine and make up three or four copies of it.

(Document photographed by the Court Crier.)

Let it be received as another stipulated item. I believe that will be the fifth. We have four.

THE CLERK: Yes, sir.

THE COURT: Let it be given Number 5.

(Stipulated Exhibit No. 5 received into evidence.)

All right, are you ready to proceed now, Miss Stewart?

MISS STEWART: [12] Yes, sir, we are ready to proceed.

THE COURT: Call your first witness.

Is the Rule invoked?

MR. BANKS: Yes, Your Honor.

THE COURT: All witnesses who are going to testify, except the parties in the case, may withdraw. While one of the plaintiffs is testifying the other withdraw, until one plaintiff has finished her testimony

(Whereupon, the witnesses withdrew.)

MR. ROBERTSHAW: If the Court please, we would like to have as a representative the President of the Board of Trustees and the Principal both, who are parties.

THE COURT: Yes, sir. Well, of course, the parties to the lawsuit have a right to remain in the courtroom until the defendants start placing on their testimony. If they are defendants to the suit they have a right to remain in the courtroom while plaintiffs are putting on their testimony.

All right, the parties to this suit, so I will know who you are, come right up here and have a seat, if [13] you will. If you are a party defendant in the case, come up and have a seat up here by your counsel.

(Parties defendant coming forward.)

Now, of course, unless you are a named party you are not entitled to sit there. You have to be a named party, representatives of the school district.

Teachers who are not named defendants would be under the rule.

MR. ROBERTSHAW: Would the Court indulge me a minute?

THE COURT: Yes, sir.

(Mr. Robertshaw conferring with counsel for the plaintiffs off the record.)

MR. ROBERTSHAW: These are all named parties.

THE COURT: You may proceed.

MR. ROBERTSHAW: Now, we have some witnesses that need to be placed under the Rule.

THE COURT: All right. Go with the Marshal to the witness room.

(Witnesses withdrawing from the courtroom.)

[14] You may proceed.

MR. BANKS: We call James Leach as an adverse witness.

THE COURT: All right, come around, Mr. Leach, as an adverse witness.

AND THEREUPON:

JAMES S. LEACH,

called as an adverse witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. BANKS:

Q Would you state your full name, Mr. Leach?

A James S. Leach.

Q How are you employed?

A Principal of Glen Allan High School.

Q Where do you live, sir?

A Glen Allan, Mississippi.

Q How long have you been employed as Principal of Glen Allan High School?

A I am in my eighth year.

Q Your eighth year?

A Eighth year.

Q When was your first year?

A This is my fifth year. I'm sorry. I have been in [15] the district eight years. This is my fifth year as Principal.

Q Were you Principal in '70-71?

A Yes, sir.

Q 1970-71?

A Yes, sir.

BY THE COURT: When was your first year as Principal?

A '70 and '71.

THE COURT: All right, thank you, sir.

BY MR. BANKS: That was your first year?

A Yes, sir.

Q And Mrs. Bessie Givhan taught there under you?

A Yes, sir.

Q Did you recommend Mrs. Givhan for employment for the year '71-72?

A No, sir.

Q Did you state in a letter to the Superintendent, Mr. Morris, that your reasons for not recommending Mrs. Givhan were that she was hostile to the administration?

A Yes, sir.

Q Did you state any other reasons?

A I stated that she was antagonistic toward the administration, which included other administrators there [16] other than myself.

Q What other administrators did you have in mind?

A The Counselor, Mrs. Hodges. She was antagonistic toward her during the year. And refusal to give an achievement test.

Q Those were your sole reasons for not recommending her?

A Those are mostly the reasons.

Q Now, the administrators that you are talking about are yourself and Mrs. Hodges that she was antagonistic toward?

A Yes, sir.

Q How did she manifest antagonism toward you?

A She made unreasonable demands. And she would come in the office after I would pass out memorandums, and she would come in, in an insulting and derogatory

method and attitude and state, "That I received your little memorandum", and throw it on my desk and state that she didn't intend to cooperate about various things, and make demands that we do certain things that at the time maybe were unreasonable, and I felt like I could not do.

Q Like what? Name one demand she made that you couldn't do?

A Okay. She made a demand that we put in N.Y.C. workers in office work, in which they were not hired, and I could not put them in there. They were not qualified for that [17] type work.

Q The complaint was that you were not placing black N.Y.C. workers in the same manner as you were placing white N.Y.C. workers?

A I didn't have any white N.Y.C. workers.

Q Were there any white N.Y.C. workers in the district?

A In the district?

Q In the school district?

A I don't know about the district. Glen Allan is all I know about.

Q Where were you assigning your N.Y.C. workers to?

A They were assigned to do janitorial-type work.

Q Were any N.Y.C. workers assigned to do office-type work?

A Not at that time.

Q What other demands did she make on you that you could not follow?

A She demanded that we place black people to take up tickets in the cafeteria in which the cafeteria supervisor had placed a white person to take up tickets.

Q What was the race of the cafeteria supervisor?

A Black.

Q The cafeteria supervisor was black?

A Yes, sir.

Q Who was the luncheon manager?

[18] A The cafeteria supervisor was white. The lunchroom manager was black.

Q What were the duties of the cafeteria supervisor and what were the duties of the lunchroom manager?

A The lunchroom manager was the manager over the lunchroom, the duties carried out in the lunchroom. The supervisor was supervisor over all the cafeterias.

Q For the whole district?

A For the whole district.

Q Or for that school?

A The whole district.

Q And the cafeteria supervisor was the one who assigned the persons to pick up tickets?

A At the request of the lunchroom manager.

Q What other unreasonable demands did she make on you?

A There were not so many demands. Most of the demands that came through were—she would have a list of them and I would refer them up to the Superintendent. It was mostly the arrogance and antagonistic and hostile relationship that existed that were the main things involved.

Q Those were the main things between you and Mrs. Givhan?

A And others.

Q What others?

[19] A The antagonistic attitude.

Q How was that antagonistic attitude manifested?

A It was manifested toward Mrs. Hodges, the Counselor, many times. When they would get through arguing among themselves and fussing at each other and belittling each other.

Q Where did this take place?

A It would take place in the faculty meetings, sometimes, and on a few occasions maybe in the office. Maybe in the hall.

Q What did they argue about?

A Just anything and everything.

Q Are you saying you didn't recommend Mrs. Givhan for employment because she didn't get along with Mrs. Hodges?

A That was one of the reasons. When I said I didn't recommend her because she was antagonistic toward the administration, I included Mrs. Hodges.

Q You said Mrs. Givhan refused to administer an achievement test?

A Yes, sir.

Q Do you know whether or not she actually administered the test, of your own knowledge?

A I can tell you what I know about it.

Q Who gave the test?

A Mrs. Hodges.

Q Were you there when the test was given?

[20] A I wasn't in the room when it was given but I walked up and down the hall.

Q When was this test given?

THE WITNESS: May I locate that date?

THE COURT: Yes, you may.

A I cannot locate that date.

BY MR. BANKS:

Q Is there a letter there to Mrs. Givhan?

A I have a letter to Mr. Morris, the Superintendent at that time.

Q You have a copy of the letter in your file that you had written to Mr. Morris, the Superintendent?

A Yes, sir.

Q This is the letter relating to the Superintendent that Mrs. Givhan refused to give the test?

A Yes.

Q Where and how had Mrs. Givhan refused to give the test?

A In a faculty meeting prior to this.

Q What, exactly, did Mrs. Givhan say?

A She just said she would not give the test.

Q Who did she say it to?

A To Mrs. Hodges.

[21] Q Were you present?

A Yes.

Q Did you hear her say it?

A Yes.

Q What did Mrs. Givhan say?

A She said she didn't intend to give the test.

Q And you wrote a letter to Superintendent Morris as a result of that?

A I did later on. When Mrs. Hodges came back and told me again that after talking with her again that she still refused, I asked her to go talk with Mrs. Givhan and check with her again, and she did. And she came back and said "Mrs. Givhan still says she will not give the test".

Q What kind of test was it?

A It was an achievement test.

Q Was the test given throughout the district?

A I am satisfied it was.

Q You don't know?

A I am not positive.

Q Who ordered the test be given?

A The Central Office.

BY THE COURT:

Q Was it given to all the grades in your school or to certain grades?

A Various tests are given to certain grades, and I [22] do not recall at this time just exactly what grades it was given to. I would have to check it out.

Q Did your directions come from the Central Office to give the test?

A Yes, sir, we got our directions from the Central Office on what tests to give.

THE COURT: All right.

BY MR. BANKS:

Q Who gave Mrs. Givhan the test?
 A Mrs. Hodges.

BY THE COURT:

Q Is Mrs. Hodges a white or a black person?
 A Mrs. Hodges is black.

BY MR. BANKS:

Q Do you know the purpose for giving the test?
 A I would state the purpose of giving achievement tests is to see—

Q Do you know the purpose for giving this particular test at this particular time?

MR. ROBERTSHAW: If it please the Court, could the witness be permitted to finish his answer to the question, please?

THE COURT: Yes, sir. Before you ask another question permit [23] him to finish the answer to the previous question, then you can proceed.

MR. BANKS: I am sorry, Your Honor.

THE COURT: Just don't interrupt him too quick. Sometimes the exchange of questions and answers are too quickly made and it doesn't give the witness an opportunity to really answer the question.

MR. BANKS: I will withdraw that question, Your Honor.

THE COURT: It is already in the record. It doesn't make any difference. Just go right ahead and ask your next question, but just remember that.

MR. BANKS: Yes, sir.

Q The question is: Do you know the reason for giving this particular test at this particular time at your school?

A We gave the test at this particular time because we give certain achievement tests every year. The District Office states when to give them. And we want to see what the progress of the students has been.

Q And what time were you about to give this test; when was this test scheduled to be given?

[24] A I could not find that date a while ago.

BY THE COURT:

Q Do you know what time of the year they are usually given, whether it is at the beginning of the school year, the middle of the school year or the end of the school year?

A Some of the tests are given in the fall after school has been going on three or four months. Some are given over in the spring at different times.

THE COURT: All right.

BY MR. BANKS:

Q Do you know whether or not tests were given in 1969-70 in the fall?

A 1969-70?

Q Yes, sir.

A I was not Principal there in '69.

BY THE COURT:

Q You were Principal in '70-71, is that correct?

A If I don't have my dates completely confused, I was Principal there beginning in 1970.

Q But do you know of your own knowledge, if you were connected with the school system in any capacity, whether or not these tests were given?

A No, I do not know if that test was given in 1969.

[25] BY MR. BANKS:

Q Do you know whether or not it was given in the fall of 1971?

A I do not know if that same one was given then.

Q Do you know if any test was given in the fall of 1971?

A I assume that it was.

Q Do you know; do you recall?

A I cannot specifically state that there was one given in the fall of 1971.

Q Did you recommend Mrs. Hodges for the year 1971-72?

A 1971-72?

Q Yes.

A For that year or the end of that year?

Q For that year.

A She was recommended back for the 1971-72 year.

Q Did you recommend her for '72-73?

A In '72-73 Mrs. Hodges—I believe that was the year she was not recommended back.

Q At what point in time did you decide not to recommend Mrs. Hodges?

A When I finally made my mind up would have been in the spring of 1973.

Q '73?

A I believe that is the year, if I don't have my [26] dates wrong.

Q Would '72 be the correct year?

A '72, I believe would be correct.

Q When you sent out your regular intent slips, did you send one to Mrs. Hodges?

A Would you repeat that?

Q When you sent out your regular intent slips for that year asking the teachers whether they intended to be back, did you send one to Mrs. Hodges?

A I do not specifically recall. We sent them to all teachers and Mrs. Hodges might not have gotten one since she was in administration.

Q After '72-73 you did not have a full time Counselor at your school, did you?

A No, sir.

Q What if any disruptions were caused by Mrs. Givhan's attitude toward you?

A She made my work harder.

Q How?

A By keeping me antagonized all the time and putting demands on me that I simply and honestly felt I could not do, and being hostile to me in front of students.

Q The demands made upon you to hire more blacks in the lunchroom and to assign black N.Y.C. students to office work were the ones that you could not fulfill, is that correct?

[27] A That was some of those demands. But it was her methods and hostility and antagonistic attitude more so than the demands.

BY THE COURT:

Q What was Mrs. Givhan's connection with the school, what did she do; was she a classroom teacher or did she have an assignment to an administrative post?

A Mrs. Givhan was a classroom teacher, a Junior High English teacher.

THE COURT: All right.

BY MR. BANKS:

Q What did Mrs. Givhan teach?

A Mrs. Givhan taught English, Junior High English.

Q Other than the achievement test that you spoke of earlier, did Mrs. Givhan fail to follow any other instructions?

A Only to the point that she would be arrogant about things and hostile. Anything else that I know of, she followed.

Q She followed your instructions?

A I think she followed her instructions.

Q And you agreed that she was a competent teacher?

A I said all along that Mrs. Givhan was a competent teacher, if that is what she would have done instead of trying to run the school.

MR. BANKS: [28] Indulge me a moment, Your Honor?

THE COURT: Yes, sir.

(Counsel for plaintiffs conferring off the record.)

BY MR. BANKS:

Q What reason did you have for not recommending Mrs. Hodges for the year 1972-73?

A The reasons on Mrs. Hodges that I did not recommend her, mostly her emotionalism.

Q How was that manifested?

A Mrs. Hodges manifested to me at all times to be in a high state of emotionalism by coming into the office with problems and be crying—and it would turn into crying. She seemed to have problems at home that I would listen to, some time for an hour or two at a time. She would finally end up crying. She would have problems with Mrs. Givhan, and she would be highly nervous and upset about that.

Q Mrs. Givhan was gone in 1971-72, was she not?

A Yes, sir.

Q Mrs. Hodges had no problems with Mrs. Givhan during that year?

A She had had problems with her and that was still in my mind, to be carried on. But she was highly emotional, and would come into the office with other things. And that was just one of them.

[29] Q So, part of your reason for not recommending Mrs. Hodges for 1972-73 was the conflict that she had had with Mrs. Givhan during '70-71?

A No, sir. I was giving that as an example.

Q But that was still in your mind?

A Yes, sir.

Q Was that the sole reason for not recommending Mrs. Hodges?

A That was one of the main reasons for not recommending Mrs. Hodges.

Q You had been told, had you not, that you would not have a full time Counselor for Glen Allan for that fall year?

A I had not been told I would not have a full time Counselor. I did not recommend Mrs. Hodges back. I did not know what we would have.

Q You did not know what you would have?

A I did not know what type Counselor we would have. The Central Office would handle that.

Q Did Central Office ask you to recommend a Counselor for that year?

A I do not recommend Counselors.

Q Was Mrs. Hodges a Counselor?

A Yes.

Q Was she a Counselor in 1971-72?

[30] A Yes.

Q Did you recommend her?

A I did not recommend her back. I mean, I do not recommend hiring new Counselors when they come in.

Q You do recommend Counselors back for your school?

A Yes, sir.

Q Did you recommend any Counselor to replace Mrs. Hodges for the year '72-73?

A No, sir.

MR. BANKS: I have nothing further, Your Honor.

THE COURT: All right. Do you want to examine the witness at this time?

MR. ROBERTSHAW: If I may, just to clarify some things.

THE COURT: All right. You may reserve the right, if you want to.

MR. ROBERTSHAW: I understand.

THE COURT: Or you may question him at this time.

MR. ROBERTSHAW: I understand that. I think it would be better to [31] examine him at this time.

THE COURT: All right.

(Documents handed to the Court and the witness.)

Hand one to the Clerk. Let this be marked.

MR. ROBERTSHAW: I wanted to get the witness to identify it first, if the Court please.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. ROBERTSHAW:

Q Mr. Leach, do you identify the letter that you have in your hand?

A Yes, sir.

Q Is that the letter with respect to which you were testifying earlier?

A Yes, sir.

MR. ROBERTSHAW: We offer that as Exhibit 6, if the Court please.

THE COURT: Let it be received.

THE CLERK: Do you want this marked as a stipulated exhibit?

THE COURT: [32] Are you going to start a new sequence?

THE CLERK: If it is your exhibit, I am going to mark it Defendants. No. 1.

MR. ROBERTSHAW: All right, Number 1.

(Document marked Defendants' Exhibit No. 1 for identification.)

THE COURT: Let me take a look at it. Let me have an opportunity to read it, Mr. Robertshaw, if you will.

MR. ROBERTSHAW: Yes, sir.

(Defendants' Exhibit No. 1 for identification read by the Court.)

THE COURT: All right, you may proceed.

BY MR. ROBERTSHAW:

Q Have you had an opportunity to refresh your memory by reading that letter?

A Yes, sir.

Q So, when was it that the achievement test was given in 1970?

A November the 30th, according to the date on this letter.

[33] Q All right, sir. And this letter was written at that time, December 1st, correct?

A Yes, sir.

Q Mr. Leach, would you please tell the Court the circumstances under which you were sent down to Glen Allan as Principal?

A Yes, sir. I was a social studies teacher and coach at Riverside, which is in the same district, The Western Line District. And after school had been going on there for, I forget exactly how long, four or five weeks or something, I was approached by Mr. Morris, the Superintendent and the Board of Trustees and asked would I be interested or willing to take on the principalship at Glen Allan.

Q All right, sir. That was in the fall of 1970?

A Yes, sir.

Q And you did take on the job?

A Yes, sir.

Q What were the conditions you found when you went down to Glen Allan?

A I was advised before I went to Glen Allan that conditions were bad, and that they were trying to—since one or two people were down there were trying to establish order until they could find a principal, and it was getting worse every day.

And when I did report for duty, or for the job, [34] the students were more or less walking the halls, the

teachers were not properly staying in their classrooms to teach, and there appeared to be a hostile attitude between maybe—between the blacks and the whites.

And now and then there would be groups of older students kind of getting in gangs in the halls and it would be hard to break them up. And there were threats made by students. And there was a lack of cooperation, it seemed like, among the teachers to help.

Q Was there a Principal there when you reported?

A There was an Elementary Principal at Glen Allan when I reported.

Q All right, sir. Now, it is in the record of this proceeding that the student population at Glen Allan at that time was 432 black and 45 white pupils. Does that agree with your recollection?

A Yes, sir, that would be reasonable.

BY THE COURT:

Q Was that formerly an all-black school before the decree of the Court providing for the desegregation of the schools?

A Yes, sir, it had at one time been an all-white school, then it became an all-black school, and then it became an integrated school.

Q I see. All right. But it was an all-black school [35] before the integration?

A Yes, sir.

THE COURT: All right.

BY MR. ROBERTSHAW:

Q And at the time there were 21 black teachers and 6 white teachers. Does that agree with your recollection?

A Yes, sir, I would think so.

Q Okay. Now, did you have any contact with Mrs. Givhan shortly after you arrived?

A Yes, sir.

Q What was that contact?

A In our first faculty meeting shortly after I arrived there was a lot of antagonism. I was trying to establish my relationship with the school and asking for cooperation among the teachers, trying to spell out what we would have to do to get the school in order and get it back running like a school properly should be running.

And Mrs. Givhan was hostile to me and inferred that she didn't intend to cooperate very much.

Q Did you later have a private conference with her?

A Yes, sir. I decided I would have to talk to her, and I talked to her in the office and asked for her cooperation. And she said that she didn't intend to cooperate.

Q All right, sir, did she make any remarks with [36] reference to Western Line School District?

A She said she didn't like Western Line District. She didn't like Morris, who was the Superintendent, or anything connected with the system.

Q All right, sir, how often did you have faculty meetings?

A We didn't have a set date for faculty meetings. But I would say we would average maybe one a month and sometimes more than that when they were needed.

Q All right, in the interim how did you distribute information to teachers and communicate policies to them?

A I sent out memoranda sometimes instead of calling faculty meetings.

Q All right, were those the memoranda about which you testified earlier?

A Yes, sir.

Q Do you recall a memorandum dealing with a six-week's test?

A Yes, sir.

Q Did you have a conversation with Mrs. Givhan with reference to that memorandum?

A Yes. I sent a memorandum out as usual advising of the schedule for six-week's tests. Like the test would be on Thursday and Friday, I would send a memorandum out a few days before that, and report cards would go out on the following [37] Wednesday. That was standard, as I understood it, throughout the District. And the Central Office stated the policies to the principals to do that.

And I was walking from the office to the lounge, which is next door, classes were changing, and Mrs. Givhan walked up to me and said she had received my little memorandum, as she always referred to them. "I have your little memorandum". And right in front of the students and all, said, "What do you expect me to do, give a pop test"? And I said, "No, ma'am, I am just giving you instructions and all the other teachers about the dates of the test and when report cards go out".

Q What sort of test was it?

A It was a six-week's test.

Q Was there any remark from Mrs. Givhan about whether she had time to prepare for such a test?

A She said, "I do not have time to prepare for it". That is what I meant to say before I said she said, "I will just give a pop test."

I said, "Mrs. Givhan, you are the teacher, you give what type test you want to give". She said, "In other words, you want me to give a pop test"? I said, "No".

This was in front of the students. They were gathering, looking. I said, "You are the teacher, you give what type test you feel it necessary to give".

[38] Q All right, sir. Now, based upon your associations with Mrs. Givhan, did you form any opinion as to whether the school could be successfully or unsuccessfully run with her present?

A When I was deciding on teachers for the following year and had to inform the Superintendent, who in turn would inform the Board, I decided that due to her an-

tagonism and the problems that I had had with her all year long, it would be impossible for me to carry on a successful school at Glen Allan the following year with her there.

I had decided that if she were there I couldn't be there and carry out the duties, and I was placed there and I intended to do my job, and I felt like I could not do it with Mrs. Givhan there.

Q Who was hired to replace Mrs. Givhan?

A Mrs. Claudia Holmes.

Q What is her race?

A Black.

MR. ROBERTSHAW: I have no further questions.

THE COURT: Is there any recross?

MR. BANKS: Yes, sir.

RECROSS-EXAMINATION

[39] BY MR. BANKS:

Q Mr. Leach, when was it Mrs. Givhan told you she didn't like Morris, or Western Line, or anybody else?

A The first time that I heard her say that was when I talked to her in the office.

Q When was that?

A I cannot give you a date. That was shortly after I arrived at Glen Allan.

Q You arrived in September of 1970?

A Most probably toward the end of September. It was in the early fall.

Q Is Glen Allan a one through twelve school?

A Yes.

Q Was anybody present when Mrs. Givhan made this statement?

A Not when she made the statement in my office.

Q When did you pass out the memorandum regarding the six-week's test?

A You mean what date?

Q What date? Do you have a copy of that memorandum?

A No, I don't.

Q Do you recall the date of the memorandum?

A No, I don't.

Q Do you recall the date when the test was to be given?

[40] A I don't recall the date. It was probably on a Thursday and Friday of that week.

Q A Thursday and Friday of the week?

A Probably.

Q And the memorandum was passed out on Monday or Tuesday of the week?

A Possibly was.

BY THE COURT:

Q That was at the end of that six-week period, the six-week's test would indicate it was?

A Yes, sir.

THE WITNESS: May I add one other statement?

THE COURT: Yes, sir.

THE WITNESS: The six-week tests are routinely given at the same time all the time, and the teachers have a copy of the school calendar stating when tests are to be given. And also when the end of the six-weeks is coming up, they know when it is. The memorandum was a reminder.

THE COURT: All right.

MR. BANKS: No further questions.

[41] THE COURT: All right. All right, you may step down.

(The witness resumed his seat at counsel table.)

Call your next witness.

MR. BANKS: Your Honor, we call Mrs. Hodges.

THE COURT: All right.

AND THEREUPON,

DOLLYE W. HODGES,

called as a witness in her own behalf, being first duly sworn, testified as follows:

(Whereupon, Mrs. Bessie B. Givhan withdrew from the courtroom.)

DIRECT EXAMINATION

BY MR. BANKS:

Q State your full name, Mrs. Hodges.

A Dollye White Hodges.

Q Where do you live?

A 115 South Delta, Greenville, Mississippi.

Q How are you employed?

A I am employed as a teacher.

BY THE COURT:

Q Where?

A Nugent (Phonetic) Center, Bolivar County Schools.

[42] BY MR. BANKS:

Q How long have you been employed by the Nugent Center, Bolivar County?

A Two years.

Q Is that 1973-74 and '74-75?

A Yes, sir.

Q In 1972-73 were you employed?

A No, sir. I did substitute work.

Q Where did you substitute?

A Nugent Center. And Greenville, whenever I was called. Just from one place to the other; wherever I was called.

Q Do you know how many days you substituted during that school year and how much money you earned?

A I substituted about four months, and I earned about \$1,600.

Q Where were you employed? Was that your only employment during that year, as a substitute teacher?

A That was my only employment during that year, until during the summer, when I worked at McRae's during the summer.

Q The summer of 1973?

A The summer of 1973.

Q Were you employed during the school year 1971-72?

A Yes, sir.

[43] Q Where were you employed?

A I was employed at Glen Allan High School as a Guidance Counselor.

Q How long had you been employed at Glen Allan?

A I had been employed as a Counselor for three years, and as a fifth grade teacher for three years and eight months.

Q All at Glen Allan?

A All at Glen Allan.

Q In 1971-72 what degrees did you hold?

A I held a BS Degree and an ME Degree, a Master of Education Degree.

Q What was your certificate classification?

A Guidance Counselor.

Q Double A?

A Double A certificate.

Q In the spring of 1972 were you informed that you would not be reemployed for the year 1972-73?

A Yes, I was.

Q Who informed you?

A The first person that informed me was Mr. Leach. And he informed me indirectly, because I asked him. There had been a fight, and Mr. Leach was out some place, so when the fight came up they brought the children to me instead of Mr. Leach. I had to go into his office. I sent one child to one office and one to another one. As

I went behind his desk to [44] sit to talk to the child until Mr. Givhan could get there, I saw the recommendation on his desk that I would not be recommended for the next year.

So when he came in that afternoon I asked him, I said, "There is rumor that I won't be recommended for the next year". He said, "We were in the process of working on it. The Superintendent will be down to talk with you about it tomorrow, or he will be down to see you soon about it." That is how I found out I wasn't going to be recommended.

Q And did you discuss your recommendation or non-recommendation with Mr. Leach at that time?

A Yes, sir. I asked him what had happened and why I was not going to be recommended. Mr. Leach and I had always worked very closely together. Mr. Leach came there at a problem time. When he came there he found me as Counselor. He came out of a social science study class. I had already had thirty hours above a B.S. Degree. I had already had thirty hours above a B.S. Degree and nine hours in Administration when he got there. So a lot of his administrative work I did because I had had principalship, I had had administration and supervision. So many of his problems, he brought them directly to me. I did the scheduling. If there was a schedule to be dropped, I dropped it. Mr. Leach and I conversed about it but I usually was the one who dropped it because he would say, "You go on and do this, Mrs. Hodges, because you know more about this than I do."

[45] Q Do you know when that was?

A On or about the 8th of March.

Q Did you ask him why he was not recommending you?

A The first thing he said was, "Well, Mrs. Hodges, to tell you the truth, I can't get a teacher to say anything about you." Then we talked along and finally he said, "Well, I will tell you, you made the parents angry. They

are angry with you." I said, "What about, Mr. Leach"? I said, "I know I told them they needed a special education class here", and I have proof to show that they do. I said, "I also told them in the meeting that this had nothing to do with insanity, but it meant grouping the children in small groups where they could best learn."

He said, "Oh, well, I can't get a teacher to say anything about you either". He said, "Well, you don't get along with the students well". I said, "What students?" I said, "I know there are some that don't particularly like my teaching ways", but I said, "there are others that come in all the time. I am always busy."

We talked about it, and finally he said, "Well, Mrs. Hodges, I will just tell you, I've got to let you go", he said, and he gave me no reason. He said, "The Superintendent will be down to talk to you tomorrow and we will discuss it then". And he never actually gave me a reason.

And he continued to talk, and he would say, "Well, [46] you know, sometimes you make the children angry", but he actually didn't pinpoint any specific reason.

Q Did he say anything with regard to his hands being tied?

A Yes, he said that. He said this later, though, not the same day. The next day when I sent someone to talk to him he said it was out of his hands.

BY THE COURT:

Q Now, were you there when this talking was done?

A No, sir.

THE COURT: Well, then, you couldn't talk about what he said to someone else unless you were there.

THE WITNESS: I wasn't there.

THE COURT: Then that would be hearsay testimony.

THE WITNESS: I didn't hear that.

THE COURT: All right.

BY MR. BANKS:

Q Did you speak to the Superintendent about it?

A Yes, sir, the next day, the following or maybe two days later. It was about the 10th of March, the Superintendent [47] came down, and he came in and I asked him in, and he took a seat. I might have been the one who said, "I understand I am not being recommended for the next year". And at first he said, "Mrs. Hodges, no, Mr. Leach is not going to recommend you for next year". And he continued to talk, and I asked him why. I asked him the same questions that I had asked Mr. Leach. Mr. Adams told me—at that time he was the Superintendent—he told me, he said, "Mrs. Hodges, you made the parents mad with you". He said,—

MR. ROBERTSHAW: If the Court please, we object and move to strike the testimony as to what someone else told her unless there is a prior showing that the defendant was present.

THE COURT: I believe she said she was talking about another conversation she had with Mr. Adams herself.

BY MR. ROBERTSHAW:

Q Mr. Adams?

A Yes, sir.

MR. ROBERTSHAW: Then I will withdraw the objection.

THE COURT: He was the Assistant Superintendent, as I understand it.

MR. ROBERTSHAW: [48] Yes, sir.

BY THE COURT:

Q You didn't talk to Mr. Morris?

A No, sir, I was talking to Mr. Adams.

Q Mr. Morris was the Superintendent at that time?

A Yes, sir.

Q And Mr. Adams was the Assistant Superintendent?

A Yes, sir.

Q And this conversation was with Mr. Adams?

A Yes, sir.

Q And you had the conversation with him?

A Yes, sir.

Q Yourself?

A Yes, sir, in my office.

THE COURT: All right.

A He said, "Mrs. Hodges, you made the parents angry. We just have to let you go." I said, "Mr. Adams, what did I say to the parents?" I said, "There was only one meeting". And I did repeat it about the special education incident, and the next year they brought in special education. I repeated that. And then Mr. Adams did not give me a specific reason for letting me go. He went on to say, "Mrs. Hodges, if you will resign I will give you a good recommendation". He says, "I will be in Personnel and any recommendation will [49] come across my desk. If you will resign I will give you a good recommendation to be hired somewhere else." And then he said, "If A. T. has a place for you, we will hire you there."

BY MR. BANKS:

Q Who is A.T.?

A A. T. is Mr. A. T. Williams, who is Principal of O'Bannon School, which is in Western Line.

Q Who was present when this statement was made if anyone?

A Mr. Leach was present. Mr. Leach and Mr. Adams came in to talk to me. And then he stopped talking.

Q Would this have been on March the 9th?

A This, I believe, was March the 10th. He stopped talking about why he could not hire me, his reason for not hiring me. And then he began to praise my work. He said, "Mrs. Hodges, I know that you can do it."

Q When you say "He", are you referring to Mr. Leach or Mr. Adams?

A I am referring to Mr. Adams. He says, "I know you are good and I know you know your work, and you can do your work". And he praised me, and finally he stopped. He says, "I know you are wondering if I am giving you all of these praises why I am not hiring you for the next year", he said, "but Mr. Leach can't recommend you for the next year." And he asked me to write him a letter of resignation, and he [50] wanted to take it to the Board, to present it to the Board during the next Board meeting.

Q Did you write a letter of resignation?

A I wrote the letter of resignation, and then I got to thinking, I said, "Now, I have given six and a half years here and I have done everything that I have been told to do and more, so I don't feel I could resign and I don't know the reason for resigning".

So I went by to see an attorney and I asked him. I told him the circumstances, and he said to me, "Mrs. Hodges, I wouldn't like to see you resign". I went back and tore the letter up and did not give them the letter. But after I did not give them the letter for about two weeks, each morning Mr. Leach would come to my door and he would say, "Mrs. Hodges, what about that letter of resignation"? And I said, "I don't have it".

Mr. Adams, when he would come down, would come to the door, and he would say, "Hi, Dollye", as if to antagonize me. He would step to the door and say "Hi, Dollye", and usually turn and go out. Finally, after about two or three weeks of this Mr. Leach walked into the room one day and he said, "Good morning, Mrs. Hodges. What about that let'er of resignation?" And I said, "Mr. Leach, I don't have a letter of resignation?" I am not going to write a letter of resignation. You can tell the Superintendent I [51] am not going to write it. And while you are at it you can ask the Superintendent", I said, "to stop walking in my door and antagonizing me every time he comes in. He knows he is not interested in me, and please do not walk

to the door and antagonize me; that I am a human and you are pushing me against the wall."

Q Mrs. Hodges, you heard Mr. Leach testify that you displayed emotional stress in his office. Do you recall any such incidents?

A I recall only one, and that is the day he told me he would not hire me. I cried that day. And even at the end of the year when Mr. Leach came in and told me I could go home a day earlier, he said, "Mrs. Hodges, I don't know how you can stand it". He said, "You are a good one", he said, "I don't know how you stand it". And I said to him, I said, "Mr. Leach, I am bigger than you, because from March when I was told that I had to do all of the work", and I continued to do the work as I was told, but there was a coolness. And I said, "This pressure of coming by speaking, when you are saying"—for instance, his work was still coming to me, I was still doing it. If something came in for eligibility for football, or something, he still sent the work to me. This really was not my work. But he said, "Mrs. Hodges, I want you to do it because you know what to do and it would be done right if you do it", so I continued to do it.

[52] Q All right, Mrs. Hodges, you mentioned earlier that Mr. Adams said if A. T. had a position for you that you could apply for that. Did you apply for a position?

A I went up to Mr. Williams and I talked to Mr. Williams. Mr. Williams said that he had a person already in mind for that position, and that he would not be able to hire me.

Q Did a position later become available?

A I understand that it became available in September of that year.

Q That would be September of 1972?

A That was in September of 1972. I was told that the position was available, that the girl had not been hired. And I went to Mr. Morris—this is the Superintendent—and I asked him if this position was open, if he would

give me consideration, or if he would hire me. And he told me, "No, he would not hire me", and I asked him why. I said, "Why, Mr. Morris, won't you hire me; what have I done"?

He said, "In the first place, Mrs. Hodges, two years ago I came down and told you to teach fourth grade". I was High School Counselor, and I remembered. And he came down and told me to teach the fourth grade, and I said to him, "Mr. Morris, I am half sick and I am afraid I won't be able to work with the children".

Q Was that the 1969-70 school year when he asked you [53] to teach fourth grade?

A That was the year that Mr. Leach came down. It must have been '70-71.

Q '70-71?

A I said, "I don't think I will be able to work with the children". And he said, "Okay", and walked out and slammed the door. But in talking to the Principal, who was black, a black elementary principal, I said to him, I said, "Mr. Jackson, if I would take fourth grade and teach fourth grade", I said, "that is a demotion, and the court order says that we are not supposed to be demoted from our position". The black principal went back and told Mr. Morris, and Mr. Morris told me what I had said. He said, "That is one reason".

Q Did he ever discuss that with you prior to September 1972?

A No, it had never been discussed with me prior to that. He said, "The next reason is I have a letter that you have written". And I said, "What letter, Mr. Morris"? He said, "A letter that you sent to Atlanta". I said, "I don't remember sending a letter to Atlanta", but then I said, "May I see it, please"? And then he sent Mr. Adams for my folder.

He brought the folder in and he showed me the letter. I said, "Oh, Mr. Morris, I did send that letter. I tried to get Mr. Leach. I couldn't find him that day, and I was

pushed for time." I had signed his name and sent the [54] letter. Then he said, "That meant that you were unstable". And I told him that I was. I said, "Mr. Morris, I don't believe—I would not consider myself being unstable but I would consider myself at that time being under pressure and pushed for time".

Q When was this letter written?

A I wrote the letter on April the 6th. I mailed the letter on April the 6th.

Q All right, was it a letter recommending yourself?

A Yes, sir, it was a letter recommending myself. I had always signed Mr. Leach's name to different forms, and I had never signed Mr. Leach's name to my recommendations. I had signed his name to many college recommendations for students, where I sent off a recommendation.

Q Was that done with his permission and at his request?

A It was not done with his permission. I didn't sign Mr. Leach's name that day.

Q I am not talking about the letter you signed for yourself, I am talking about previous letters.

A Oh, the previous letters, yes. Mr. Leach knew I would be signing them. Many times I would hand him the recommendation and he said, "Mrs. Hodges, take this and sign it. You know more about that stuff than I do. Just write it and mail it off." And this is what I would do.

[55] BY THE COURT:

Q As I understand it you didn't have any authority to sign his name to a letter recommending yourself?

A No, sir, I did not.

Q You did that on your own?

A I did that on my own accord, and I am sorry for that.

BY MR. BANKS:

Q What were the circumstances under which you did that?

A The circumstances under which I signed this letter?

Q Yes, signed the letter recommending yourself.

A This was on Thursday. I had a meeting in Jackson on Friday. Mr. Leach either was not in school that day or he had come in and had gone out. I had to get the letter in the mail. I was leaving the following day. Usually when I have a meeting in Jackson I would drive down there that afternoon to be there for 9 o'clock the next morning.

So, I looked for Mr. Leach and I couldn't find him. I met Mr. Givhan in the hallway, and I said to Mr. Givhan, "Mr. Givhan, will you sign this for me"? He says, "I am busy." He says, "I am on my way to class, get someone else to sign it for you". And I got someone to sign his name and I signed Mr. Leach's name. And I mailed the letter. I got the girl in the library, I saw her some place, to type the [56] address on it, and she typed the wrong address. The letter came back to Mr. Leach.

Q When was the letter due wherever it was supposed to be?

A It was due on the 10th, which was on a Monday. That was the deadline. It was due on Monday. And Mr. Leach got the letter. Normally when a letter comes back that I have sent Mr. Leach would come to me and he would hand it to me, and he would say, "Mrs. Hodges, do you know something about this"? And I would say, "Yes, Mr. Leach, I know about that. I sent the letter." He would say, "Well, I just wanted to know if you knew. This is all right." I had access to the letterheads and everything in the school, and I wrote letters and made phone calls at will, and it was understood.

Q Mrs. Hodges, did Mr. Leach, or Mr. Morris, or anyone say anything to you about your instability or emotional instability before September of 1972?

A Once Mr. Leach said to me in my evaluation—that is the only checkmark he had—he said, "Mrs. Hodges, you can show emotion, facial"—he said—"facial emotion when you become upset or when I say something to you that

you don't like. I can tell it through your facial expression." And I wrote on my evaluation that this is one of the things that I recognize too, and I am working on it.

Mr. Leach and I discussed that and he agreed. He [57] even came back and told me, "Mrs. Hodges, you are improving. I think you are working on it."

Q When did that happen?

A During evaluation time. I don't recall the exact date. We had two evaluations, one in the fall and one in the spring. When he did not recommend me, he had already gone through my evaluation with me. And there was nothing on my evaluation that indicated that I would not be recommended for the next year.

Q Going back to 1970-71, you were working with Mrs. Givhan, is that correct?

A Yes, sir.

Q And you heard Mr. Leach talk about a particular achievement examination that was supposed to be given?

A Yes, sir.

Q Do you know who gave that examination to Mrs. Givhan's class?

A Mrs. Givhan and Mrs. Butler gave that achievement test. Now, in the beginning Mrs. Givhan did say she was not going to give it.

Q Did she give her reason for not giving it?

A She said I was supposed to give it. She said, "Mrs. Hodges, I am not going to give that test". She said, "That is the Counselor's job". That is what she said.

The morning of the test, I had gotten up the [58] booklets and I had gotten Mrs. Butler. But that wasn't unusual because the other teachers helped other teachers, those who did not have regular classrooms. I got the material and gave it to Mrs. Butler, and I spot checked. I did not administer the test myself, but I went from room to room to dress up people and to see if they were doing it correctly.

Q Uh-huh.

A I went in. I find Mrs. Givhan and Mrs. Butler giving the test. And then when the test was finished, I told them, "When you finish the test alphabetize the tests and bring them back to me". When the test was finished Mrs. Givhan alphabetized the test booklets and answer sheets and brought them back to my office. She gave the test, but she did say in the beginning she was not going to give it.

Q You heard testimony about Mrs. Givhan exhibiting a hostile attitude toward you.

A Yes.

Q Did you have any fights with Mrs. Givhan during the year '70-71?

A I would not consider them fights. I would consider them a matter of disagreement. Mrs. Givhan, at one particular instance, wanted me to advance a student whom I felt was not capable of going into the ninth grade work. She and I had a disagreement about that, and she did bring a parent in to see me, which I welcomed, because it gave me a chance to talk to [59] the parent and go over the cumulative record and show them just how the student was progressing.

Q Other than that incident how was your working relationship with Mrs. Givhan?

A Well, Mrs. Givhan is the type of person who has her own personality, and she has a mind of her own. And I have my personality and a mind of my own. And many times we did not see eye-to-eye about things, but it wasn't to the point that we came to blows. That was the only confrontation we had, that I mentioned. Other than that, I just considered her too outspoken and she considered me the same. And this is the kind of relationship we had.

When she left to go somewhere, to the library or something, many times she would ask me, "Mrs. Hodges, would you go to help me select books"? So, it was sort of personality clashes more than hostility.

Q But did it interfere with your working relationship?

A It did not interfere with my working relation. In fact, each time she said something contradictory to me, I think it kind of gave me a push to work a little harder.

MR. BANKS: Indulge me a moment, Your Honor.

THE COURT: Yes, sir.

(Counsel for plaintiffs conferring off the record.)

[60] MR. BANKS: We tender the witness, Your Honor.

THE COURT: Before we get into the cross-examination, I think we will take the morning break now, for fifteen minutes.

(Court in recess from 10:25 a.m. until 10:40 a.m.
The trial then proceeded in open court.)

THE COURT: Be seated, please.

MR. BANKS: I have two or three more questions of Mrs. Hodges, if the Court please.

THE COURT: All right.

BY MR. BANKS:

Q Mrs. Hodges, you stated earlier you worked at the Nugent Center, Bolivar County. What is your position there?

A I am a reading teacher there.

Q Do you have a Double-A certificate in reading?

A No, sir. I am working on an A Certificate.

Q Does that require you to make less money than you would have made—

A Yes, sir.

Q —if you were in Western Line?

A Yes, sir. I make far less than what I would be [61] making in my chosen field.

Q Did you get a statement from your Superintendent—

A Yes, sir.

Q —about your wages for the year '73-74, and '74-75?

A Yes, sir.

MR. BANKS: I hand this to the Marshal to hand to the witness.

(Document tendered to and examined by Mr. Robertshaw; handed to the witness.)

Q Is that the statement you had before?

A Yes.

Q Does that show what you made for the year '73-74, and '74-75?

A Yes, sir.

MR. BANKS: Your Honor, I ask that this be admitted in evidence.

THE COURT: Let it be received.

THE CLERK: Plaintiffs' Exhibit No. 1 received into evidence.

THE COURT: Let me see it.

(Tendered to and examined by the Court.)

[62] THE COURT: All right, you may proceed.

BY MR. BANKS:

Q Do you know approximately how much you were making at Western Line as a Counselor with a Double-A certificate?

A Approximately \$9,800.

Q Would that be for the year '74-75?

A That would be for the year '74-75, yes, sir.

Q How much were you making for the year 1971-72?

A I left there making \$7,200.

Q Has it been raised since that time?

A Yes, sir, there has been three.

Q Do you still desire to return to Western Line as a Counselor?

A Yes, sir.

MR. BANKS: We tender the witness, Your Honor.

THE COURT: All right, you may take the witness on cross-examination.

MR. ROBERTSHAW: Thank you, Your Honor.

(Document handed to the witness by Mr. Robertshaw.)

CROSS-EXAMINATION

BY MR. ROBERTSHAW:

[63] Q Mrs. Hodges, in our Interrogatories we included a copy of that letter. Do you identify that letter as a letter attached to our Interrogatories, as Exhibit "C"?

A Yes, sir.

MR. ROBERTSHAW: May I have that marked as an exhibit?

THE COURT: Yes, you may.

THE CLERK: Defendants' Exhibit No. 2 marked for identification.

MR. ROBERTSHAW: May it be returned to the witness?

THE COURT: You can give me the copy and give the original back to the witness.

(Handed to the witness.)

MR. BANKS: Your Honor, we object to the introduction of this document and to any discussion or testimony about it. We consider it to be irrelevant and immaterial.

THE COURT: I will permit further identification on it so I can see what it is, other than it was just an exhibit attached to an Interrogatory.

MR. ROBERTSHAW: [64] Yes, sir.

Q Mrs. Hodges, you were requested to admit that that was a true copy of a letter addressed to the then Superintendent of Western Line?

A Yes, sir.

Q And the then Principal of Glen Allan Attendance Center, and signed by twenty-seven students?

A Yes, sir.

Q Correct?

A Yes, sir.

Q You were asked to admit that the letter was not solicited by any of the defendants, and you admit that, is correct?

A Yes, sir.

Q Now, you were asked to admit, quote, "That that portion of the letter reading "The Counselor we have now isn't much of a Counselor, she can't solve our problems", refers to yourself?"

A Yes, sir.

Q Does it refer to yourself?

A According to the letter they are referring to me. But as far as I was concerned when I saw the letter, it does not refer to me because this letter was written when the children were angry because Mrs. Givhan was being let out. They were emotionally—they were highly emotional. These [65] were eighth graders at the time. Most of my work had been done directly with the ninth through twelfth graders. I had not worked as closely with them as I had with the ninth through twelfth graders, and it did not arouse me at all. I felt that they were doing it through emotion and that they were angry.

Q All right. Now, you were the only Counselor at Glen Allan at the time that letter was written, is that not true?

A Yes, sir.

MR. ROBERTSHAW: We now offer that.

THE COURT: Is there an objection?

MR. BANKS: We object on the basis of hearsay and relevancy, Your Honor.

THE COURT: The objection is overruled. Let it be received.

(Defendants' Exhibit No. 2 received in evidence.)

Let me read it, now, before you proceed.

THE WITNESS: May I add something?

THE COURT: Just a moment.

[66] (Document read by the Court.)

All right, you may explain.

THE WITNESS: Counsel,—

MR. ROBERTSHAW: If you don't mind, just answer my questions as I put them to you.

THE WITNESS: Okay.

THE COURT: Well, I was going to give her an opportunity to explain it, if she wants to make a statement about it.

MR. ROBERTSHAW: All right, sir.

THE WITNESS: Counselor, that letter was written one year before I was let out. The year that that letter was written, I was recommended for work for the next year. The year that particular letter was written, I was recommended for work that particular year.

MR. ROBERTSHAW: All right.

THE COURT: You have explained it.

BY MR. ROBERTSHAW:

[67] Q Have you had an opportunity to look at the rather dim copy handed to you by the Marshal?

A Yes, sir.

Q Did you see the original of that?

A Yes, sir, I found it on my desk.

Q And it is signed, purportedly, from the seventh, eighth, ninth, tenth, and eleventh grades, and some of the twelfth?

A No, sir, I can't say that.

Q Well, you did see the original?

A Yes, sir, I saw the original, but I don't remember whom it was signed by. It was just something I found on my desk. I showed it to the Principal and didn't pay

any more attention to it. In fact, I think I gave it to him. But I don't recall who signed it.

Q Do you have any idea where the original is?

A No, sir, I don't, because I gave it to the Principal.

Q To Mr. Leach?

A Yes, sir.

MR. ROBERTSHAW: All right. We offer that as an exhibit. What number will this be?

THE CLERK: Number 2.

[68] MR. ROBERTSHAW: Here is another one.

THE CLERK: Is this another exhibit?

MR. ROBERTSHAW: Yes, ma'am.

THE CLERK: It will be Number 3.

MR. BANKS: That is hearsay and irrelevant. It is not even signed.

THE COURT: Let me read it, if I can. You say it is dim?

MR. ROBERTSHAW: Yes, sir.

(Document tendered to and examined by the Court.)

THE COURT: I can't read it.

MR. ROBERTSHAW: If the Court please, I was going to ask the witness to read it. She had the original.

THE COURT: All right, if you will.

MR. ROBERTSHAW: I believe I can make it out.

[69] THE COURT: See if you can make it out.

THE WITNESS: Judge, I tried to make it out. I couldn't make it out. I see words like "Mrs. Jackson, Mrs. Jacobs, boom". But, to read it straight through, I wouldn't be able to.

MR. ROBERTSHAW: All right. If the Court please, may I read it and have her follow me, and she can correct me if I make a mistake?

THE COURT: All right.

MR. ROBERTSHAW: (Reading) Dear Mrs. Hodges: Let me tell you one damn thing. Just because you, indistinct, you are School Counselor, don't you try to get rid

of our best teachers. If I weren't—if it weren't for you, she would not be fired. I hate you, Hodges. You frown up in your fact all of the time.

MR. BANKS: Your Honor.

MR. ROBERTSHAW: (Reading) You think—

MR. BANKS: [70] Objection. Evidently, Mrs. Hodges cannot follow several of the words that have been misread already.

THE COURT: Can you follow it?

THE WITNESS: No, sir, I am not following it word-for-word because I can't understand it word-for-word.

THE COURT: All right. Do the best you can with it.

MR. ROBERTSHAW: I will ask Counselor to correct me if I misread a word.

THE COURT: All right.

MR. BANKS: So far he has missed a word. He put in "Mrs." when there is no "Mrs.". It says, "Dear Hodges". And I believe he read "she" when it should be "they".

And he read, "If it weren't". All I can make out is an "I".

MR. ROBERTSHAW: Well, let me try to reread it.

(Reading) Let me tell you one damn thing. Just because you are School Counselor, don't you try to get rid of our best teachers. If it weren't—

[71] Do you read that "I"?

MR. BANKS: That is all I see.

MR. ROBERTSHAW: (Reading) If I weren't for you, they would not be fired. I hate you, Hodges. You frown up in your face all of the time. You, indistinct, you are young.

THE COURT: What?

MR. ROBERTSHAW: The word, I believe, is "think".

THE COURT: You think you are young?

MR. ROBERTSHAW: (Reading) You think you are young. You think you are cute. Well, let me tell you one, obscenity, thing.

THE COURT: One what?

MR. ROBERTSHAW: (Reading) One mother-fucking thing. I hope you die with a heart attack. All of the children of school want our teachers back. We demand you to let Mrs. Givhan, Mr. Givhan, Mr. Ledbetter, Mr. Jacob and Mrs. Jacob, and especially Mr. Jackson. If you don't let them come [72] back you better not come back, because if you don't get things straight pretty soon, boom for you. Ha, Ha, Ha. From the seventh, eighth, ninth, tenth, eleventh graders and some of the twelfth. You old fool. We hate you, Mrs. Hodges. Please commit suicide.

THE COURT: Are there any names signed to it?

MR. ROBERTSHAW: No, sir, it is anonymous.

THE COURT: I am going to sustain the objection to it. It has no bearing at all on my decision. And I don't think the Trustees or the officers of the school should have paid any attention to it.

MR. ROBERTSHAW: All right.

(Document produced by Mr. Robertshaw.)

BY MR. ROBERTSHAW:

Q Do you identify that as an Employee Evaluation Form dated April 16th, 1971?

A Yes, sir.

Q And on the last page, do you acknowledge a copy of the report has been given to you and discussed with you?

A Yes, sir.

Q Now, if you would please refer to the third page, [73] and the second to last item. You were rated low on stability. Is this the area that was discussed with you by Mr. Leach?

A Yes, sir.

Q And that is the area that you were to work on, is that correct?

A Yes, sir.

THE COURT: Now, you say rated low. It says here, "Occasionally 'blows up' under pressure; is easily irritated."

Is that what you mean, under "Stability"?

MR. ROBERTSHAW: Well, it is on a scale of one to five. From bad to good, it is rated two, which is what I refer to as being low, or below average.

THE COURT: Well, it speaks for itself, unless the word "Low" is on there somewhere where I can see it. But, it speaks for itself.

MR. ROBERTSHAW: Yes, sir. We would like that introduced as an exhibit.

THE COURT: All right, let it be received.

THE CLERK: Defendants' Exhibit No. 4 received into evidence.

[74] THE COURT: Regardless of what it said in the other portion of it, Mr. Leach here said that she is doing a good job as Guidance Counselor.

MR. ROBERTSHAW: That is correct, she was doing a good job during that year.

THE COURT: Now, just a moment. Let me get through talking before you start. The same thing applies between counsel and the Court as it does between counsel and the witnesses.

The Court Reporter can't get both of us talking at the same time.

MR. ROBERTSHAW: Yes, sir.

THE COURT: I was going to say that regardless of what is in the report itself, Mr. Leach did at that time consider her as doing a good job as a Guidance Counselor.

It will be received in evidence.

(Defendants' Exhibit No. 4 received in evidence.)

You may proceed.

(Document produced by Mr. Robertshaw, handed to the witness.)

[75] BY MR. ROBERTSHAW:

Q Mrs. Hodges, what are the duties of a Counselor?

A The duties of a Counselor is to work with students in personal and impersonal problems, and work along with the administration as long as it doesn't deal with discipline problems.

Q And a significant portion of your work is to advise school children with problems?

A Yes, sir. Also, you are assigned according to what the Principal assigns you to do.

Q Right. But you do advise them about problems, and advise them about work, and advise them about going to school, and you spend a good bit of time with the children?

A Yes, sir.

Q And the children you worked with primarily are eleventh and twelfth grade children?

A No, sir. The children I worked with primarily, closely, were ninth through twelfth graders.

Q Ninth through twelfth?

A Yes, sir.

Q And these children are young adults?

A Yes, sir.

Q Now, would you agree that a necessary quality for a Counselor would be unquestioned integrity?

A Yes, sir, I would agree it would be unquestionable, [76] but as a human you make mistakes.

Q Would you agree that honesty is an essential characteristic?

A I would agree that honesty is.

Q Now, in the summer of 1972 you had applied to Atlanta University for work on your doctoral, had you not?

A Yes, sir.

Q And they required a recommendation from the Principal and from the Assistant Principal, did they not?

A Yes, sir.

THE WITNESS: But, Your Honor, this was not in the summer, this was in the spring.

BY THE COURT:

Q The spring of '72?

A Yes, sir.

BY MR. ROBERTSHAW:

Q The spring of '72?

A Yes, sir.

Q And these forms were sent to you to be filled out by the Principal and the Assistant Principal, is that correct?

A Yes, sir.

Q Now, you have before you a rating blank and an envelope, and I believe you testified that you mailed that to Atlanta University.

[77] A Yes, sir.

Q And at the time you mailed it you intended that they rely on that in deciding whether or not to admit you to the summer program, did you not?

A Yes, sir.

Q And you knew that they were looking for the evaluation from the Principal and the Assistant Principal?

A Yes, sir.

Q All right. Now, turn to the back of the rating blank.

A (Examined)

Q Do you have it before you?

A I have it.

Q Did Mr. Leach write that or did you write it?

A No, sir, I have already testified I wrote it. And this is the one infallible thing in my career. I am sorry I did it, perhaps under pressure because I had a deadline to meet and because at the time I was pressured because

I was out of work and trying to get into the doctoral program.

At that time I looked for Mr. Leach. I could not find him. I did it then. But I did it under pressure. And this is the one thing I am sorry for.

Q Well, how long had you had the blank?

A I don't recall, Counselor, how long I had had the [78] blank. Because, as I said, at this time I was under pressure. I was writing all over the country trying to find work for the next year.

Q Had you asked Mr. Leach to fill out the blank?

A When it dawned on me that this was the date to mail the blank, I got it out of my office and went looking for him. I could not find him. I did this in the office. I went back looking for him to get him to sign it. Because even on some of my recommendations that he had sent in he had come to me. He would come to me and say, "Mrs. Hodges, what do you want me to put on this"?

MR. ROBERTSHAW: If the Court please, I don't believe the answer is responsive to my question.

THE COURT: Well, the objection is overruled.

BY MR. ROBERTSHAW:

Q All right, continue.

A He would ask me—

THE COURT: She has given an explanation of having done something that she admits was wrong, so far as that is concerned. She is trying to explain her actions.

MR. ROBERTSHAW: All right.

[79] A He would ask me, "What do you want me to put on this? I want to give you a good recommendation, what do you want me to write?" So, after I couldn't find him and, as I say, being under pressure as I was, I just decided to write this.

I know it was wrong, and I am sorry for it.

Q All right. Now, did you ever discuss with Mr. Leach this particular recommendation?

A I left immediately that afternoon or the following morning for Jackson. When I came back it never crossed my mind again.

Q Prior to April the 6th, did you ever or did Mr. Leach ever discuss a recommendation of this type to you?

A Yes, sir, he sent one to Alabama University for me. I gave it to him, he wrote it up, and at the same time he asked me what should he put on there, what did I want him to put on there, so that it would go in and be approved.

Q Now, my question was: Did you ever discuss this particular rating with Mr. Leach?

A No, sir, I didn't discuss the rating with him.

Q And you knew at the time you mailed this that Atlanta University would regard it as coming from Mr. Leach?

A Yes, sir. I have admitted it was wrong.

Q All right. Had you already received notice at the time that you would not be employed for the next year?

[80] A Yes, sir, I had received notice in March.

BY THE COURT:

Q And this was in April?

A April.

Q And you said a while ago you were out of work at the time.

A Well, I knew I would be out for the following year.

Q I see. The decision had already been made?

A Yes, sir.

Q By Mr. Leach and the other authorities not to recommend you?

A Yes, sir.

Q At the time of this?

A Yes, sir. They made it March the 10th.

THE COURT: All right.

MR. ROBERTSHAW: We offer that as Exhibit 4.

THE COURT: All right, let it be received into evidence.

THE CLERK: This is Exhibit No. 5.

(Defendants' Exhibit No. 5 received in evidence.)

(Document produced by Mr. Robertshaw, handed to [81] the witness.)

BY MR. ROBERTSHAW:

Q The Marshal has handed you a second Personal Rating Blank, also from Atlanta University. And I will ask you to examine that. In the blank for "Name of Applicant", can you tell me who wrote that?

A I printed that.

Q You wrote that?

A I printed that, yes, sir.

Q And the checks on the various questions, who put those checks in?

A I did that.

Q All right, is this Mr. Givhan's signature?

A No, sir, it is not.

Q Now, on April the 6th Mr. Givhan was present at the school?

A I met him in the hall. He said that—

THE COURT: Now, he just asked you if he were present.

THE WITNESS: Yes, sir.

THE COURT: Just answer his questions.

A Yes, sir.

BY MR. ROBERTSHAW:

[82] Q And you knew he was in school that day?

A Yes, sir.

Q And I believe you testified that Mr. Leach was absent that day.

A He was not there that day, yes, sir.

Q And you also mailed this one to Atlanta University?
 A Yes, sir.
 Q Knowing it was wrong?
 A Under the same conditions, yes, sir.
 Q And intending that they rely on it in acting on your application?
 A Yes, sir.

THE WITNESS: May I explain this? I was given permission by Mr. Givhan. I met him in the hall, and he said he was busy, he had to go to a class. He said, "Get someone else to sign it for you", and I got someone else to sign it. This was not unusual either.

Q Did Mr. Givhan ever authorize you to sign his name?

A No, sir, not in a written form.

Q All right, when did Mr. Leach,—

THE COURT: She said he authorized her to get someone else to sign it for him.

[83] Q Is that what you testified?

A Yes, sir, I understood him to say, "I am busy, get someone else to sign it", in passing in the hall.

BY MR. ROBERTSHAW:

Q Did you tell Mr. Givhan what it was?

A No, sir, I don't remember. I don't recall telling him. I had it in my hand like this (Demonstrating) when I met him, and said, "Sign this. Read and sign this for me, Mr. Givhan". He says, "I am busy, I am going to class."

Q So that Mr. Givhan had no opportunity to read that?

A He never read it, no, sir.

Q I see. Isn't it a fact that on other documents that you testified that you signed and sent out that those were routine requests for grades?

A Some was routine requests for grades. Others was for various things. Some went out to parents for consultation. There were various things, not just for grades

only. There were other letters I sent out. I made up all of the forms in my office of different kinds and ran them off on the mimeograph machine. And many times when Mr. Leach was not there I signed his name to them and ran them off.

Q When did he authorize you to sign his name to anything?

A Mr. Leach never came up and said, "Sign my name", but he never said, "Don't sign my name". He has gotten back [84] many things that I have signed. And he would bring it to me, and he would say, "Mrs. Hodges, do you know about this?" I would say, "Yes, Mr. Leach, I wrote and signed that". He would say, "Okay. I just wanted to know if you knew about it."

Q Now, isn't it a fact that the forms that you had had a place for signature of Principal or Counselor?

A No, sir, they had a place for signature by Principal and Counselor, meaning both persons signed.

Q You never signed one that said "Principal or Counselor"?

A I might have. I don't recall.

MR. ROBERTSHAW: We have no further questions.

THE COURT: Is there anything on redirect?

MR. BANKS: No, Your Honor.

MR. ROBERTSHAW: I meant to introduce that last document into evidence.

THE COURT: All right, let it be received.

THE CLERK: Defendants' Exhibit No. 6 received into evidence.

MR. BANKS: [85] No further questions of this witness, Your Honor.

THE COURT: You may stand down. Call your next witness.

(The witness resumed her seat at counsel table.)

MR. BANKS: We call Mrs. Givhan.

AND THEREUPON,

BESSIE B. GIVHAN,

called as a witness in her own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. BANKS:

Q Would you state your full name, Mrs. Givhan?

A Bessie Brantley Givhan.

Q Where do you live?

A I live at 1260 Holmes Street, Greenville, Mississippi.

Q Where are you employed?

A I am employed with the Delta Resources Committee as a community worker.

Q How long have you been employed there?

A Since July 16th, I believe, 1974.

Q Where were you employed before that?

A Mississippi Delta Council for Farm Workers Opportunities, Incorporated.

[86] Q What were the dates of your employment with the Delta Council?

A Well, it was a federal program and then there was a cutback.

Q What were the dates of your employment, that you worked there?

A The date was November 3rd, 1971, and it ended May 30th, I believe.

Q May 30th, 1972?

A 1972.

Q In July 1974, where were you employed?

A Nowhere.

BY THE COURT:

Q Now, let's see. You were employed at this Delta—

A Resources.

Q —Resources since June 16, 1974?

A Yes, sir.

Q You were employed by the Delta Council from November 3rd, 1971, to May the 30th, 1972?

A Yes.

Q And you were unemployed between the two periods?

A Yes.

BY MR. BANKS:

Q Did you bring tax records with you to show your salaries?

[87] A Yes, I did.

Q For both these periods?

A Yes.

Q Are they on counsel's table?

A I think I gave them to you.

MR. BANKS: We will find them.

Q Where were you employed before November the 3rd 1971?

A I was employed by the Western Line School District.

Q How long were you employed at Western Line?

A From 1963, I believe September 1963 until May 1971, I think it was.

Q What was your assignment in that school district?

A I worked at the O'Bannon School, and I was—well, the first year I think I taught one seventh grade English class, and the rest was ninth grade English classes. And somewhere around 1965 or '66 we added speech to the curriculum, and which I taught ninth grade English and speech. The speech was from nine through twelve, and we were to teach it—

Q (Interposing) You taught speech from 1965?

A Yes, sir.

Q Were you recommended for employment for the school year 1971-72?

A No.

[88] Q Who was your Principal?

A Mr. James Leach.

Q Did Mr. Leach tell you why you were not recommended?

A No, he didn't.

Q You heard Mr. Leach testify that you exhibited an antagonistic attitude and you refused to give an exam. Did you give that achievement test?

A I did give the test.

Q With regard to the question of about N.Y.C. workers, would you explain to the Court what that involved?

A The office, as I explained to Mr. Leach, everybody in the office was white. I told them with the black school, the number of black pupils there, the impression—it didn't give the children any incentive to learn, you know, because whenever they passed the office, I told him, "When they see all white faces in the administration, it wasn't good for the atmosphere of the learning for the children".

Q The clerical staff and office staff was all white?

A All white.

Q At the Glen Allan School?

A Yes.

Q Had it been that way in 1969-70?

A I don't know. I couldn't answer that.

Q What did you request of Mr. Leach with regard to the office workers?

[89] A I gave Mr. Leach a list of things. He called them "demands". I just told him they were not demands, they were requests.

Q What did you request?

A I was requesting the office personnel—I told him they should be integrated, and that the N.Y.C. workers should be used not only to do janitorial services but also to do little office work, such as pass out absentee slips, you know, and jobs of that type.

Q Was there any request on that list regarding the operation of the lunchroom?

A I think probably. At that particular time I informed him that the—I think I used the words "choice positions"—that whites were in all choice positions.

Q What were those choice positions?

A Taking up lunch tickets in the cafeteria.

Q Were there other choice positions?

A Besides the principalship, the secretary, the head counselor was white. And I don't know whether before I asked him these requests, I think it was probably after that, that they placed a white lunchroom supervisor. And then I think I went to him and told him, I said, "Now, this is what I was talking about, you know, whites in choice positions".

Q Now, you heard Mr. Leach refer to you talking about his little memorandum. How many discussions did you [90] have with Mr. Leach about a memorandum?

A I don't recall using the expression of "little memorandum". Mr. Leach did not have faculty meetings. And the only communication that we had was through memorandums. And there were some times that he would pass out the memorandums, and I would ask him, I would say, "Mr. Leach, when will we have a faculty meeting", you know? And he says, "Well, I don't have a faculty meeting on my schedule". Because some things on the memorandum were probably needing explanation, whereas, the teachers have to, you know, pass by each other and ask, "What did he mean by this", and "What did he mean by that"?

But I thought if he would have a faculty meeting and explain to the teachers what he wanted done, you know, the job would go along smoothly.

Q What was the relationship between you and Mrs. Hodges?

A I would say our relationship was good. There were certain things I felt that Mrs. Hodges should have been doing regarding the welfare of the students.

For example, when I asked her about counseling the seventh and eighth grade students, which I was teaching English, she stated that her contract did not read that she counsel seventh and eighth grade students. This was

the majority of the students at school, was seventh and eighth [91] grade students, which were over a hundred. Those from nine through twelve were less than a hundred students.

And this is what she said, she was hired to counsel less than a hundred students. And I couldn't see the District nor Mr. Leach allowing over a hundred students in the seventh and eighth grade, which I felt needed counseling more than the high school students. And, which, this particular counseling job actually fell to me as an individual teacher and counselor.

Q You kind of filled the void for the seventh and eighth grade students?

A Yes.

Q Did that cause your working relationship with Mrs. Hodges to suffer in any way?

A No, it didn't cause it to suffer in any way.

Q Did the students suffer from any dispute between you and Mrs. Hodges?

A Not to my knowledge.

BY THE COURT:

Q Did you discuss that problem with Mr. Leach?

A About the—

Q About Mrs. Hodges performing counseling work with seventh and eighth grade students?

A No. No, I didn't.

Q You never did discuss it with him?

A No, I didn't discuss it with him.

[92] Q You just discussed it with her with reference to the work she was doing?

A Yes. He may have been present at a time that I discussed it with her. He had knowledge of this.

Q What was your working relationship with Mr. Leach?

A I would say our working relationship was good.

Q Did you ever fail to follow any of his instructions?

A Not to my knowledge.

Q Did he ever have any counseling sessions with you?

A No.

Q Mr. Leach testified that you told him you didn't like Western Line, or Mr. Morris, or anybody employed by Western Line. Do you recall such an incident?

A I can't recall that, no.

Q Did you make such a statement?

A No.

MR. BANKS: Would the Court indulge me a minute?

THE COURT: Yes, sir.

(Counsel for plaintiffs conferring off the record.)

MR. BANKS: I would like to take a few seconds to find out what happened to the W-2 forms that were here during [93] the recess.

THE COURT: Well, all right, see if you can find them there.

(Counsel for plaintiffs searching for subject W-2 forms.)

Do you want to go help them search?

THE WITNESS: Yes, sir.

(The witness assisting counsel search for records; returned to the witness stand.)

BY MR. BANKS:

Q Mrs. Givhan, I hand you a package of slips of paper stapled together and ask you whether or not you can identify them?

A (Examined)

Q What is included in that pack, Mrs. Givhan?

A What is that?

Q What is included in that pack? Is there a copy of your W-2 forms?

A All of my W-2 forms, I believe, from nineteen—

Q (Interposing) Some of those are wage statements. What do they represent, the last five or six sheets?

A It shows, starting on March the 11th, 1975, my salary was \$216. The 3rd month and the 28th day of '75 shows I was making \$240 every two weeks.

[94] Q Do those represent your total earnings from May of 1971 through April of 1975?

A Yes.

MR. BANKS: We move that these be admitted in evidence.

THE COURT: All right, let them be received in evidence.

(Plaintiffs' Exhibit No. 2 received in evidence.)

MR. ROBERTSHAW: May I see them, if the Court please?

THE COURT: Yes, sir.

(Tendered to and examined by Mr. Robertshaw; returned to the Clerk.)

THE COURT: All right, you may proceed.

BY MR. BANKS:

Q Mrs. Givhan, do you recall the amount of your contract with Western Line Consolidated School District for the year 1970-71?

A I believe that was around \$6,000.

Q What is your educational background?

A I have a B.S. Degree in Speech, Dramatics and English.

Q What certificate classification do you hold?

[95] A I have an A-Type certificate.

Q For what grades?

A Secondary.

Q Secondary?

A Secondary certificate, yes.

Q Mrs. Givhan, were there any classroom disruptions or any other disruptions in that year '70-71?

A Not to my knowledge.

Q Involving you?

A Not to my knowledge.

MR. BANKS: I tender the witness, Your Honor.

THE COURT: You may take the witness on cross-examination.

CROSS-EXAMINATION

BY MR. ROBERTSHAW:

Q Mrs. Givhan, you were employed by Western Line in 1969 and '70, first at O'Bannon, is that correct?

A Yes, sir.

Q And then after the first semester the District was reconstituted so that all of the High School students went to Riverside and all of the Junior High and lower level students went either to O'Bannon or Glen Allan, is that correct?

A Yes, that is correct.

[96] Q Do you recall that taking place?

A Yes, sir.

Q Do you recall that prior to February the 2nd of 1970 that the teachers from O'Bannon were being sent to Riverside? I refer you to a Bill of Complaint. Was that the heading on the Bill of Complaint?

A I am not knowledgeable about a Bill of Complaint. I probably would need to look at that.

Q Would you recognize it if you saw it?

A Probably.

(Document produced by Mr. Robertshaw; handed to counsel for the plaintiffs and the Court.)

A (Examined) Yes, I recall this.

Q And that is your signature about half way down?

A Yes, it is.

MR. ROBERTSHAW: I thought the Court was reading it.

THE COURT: Well, I am trying to read it. It is a little hard to read. I don't want to stop you. You may go ahead.

BY MR. ROBERTSHAW:

Q Now, at that time school stopped. Do you recall when?

A Beg pardon?

[97] Q All right. Would you agree that approximately one week intervened between the time that school closed at O'Bannon and was scheduled to reopen at Riverside?

A Yes, I recall that. I think it was about two weeks, was it not?

Q I don't remember. Do you recall?

A I recall that period of time, yes.

Q Would you agree that it was either one or two weeks?

A Yes, I would agree to that.

Q And things were pretty much in confusion, isn't that correct?

A Yes, sir.

Q The majority of the children were not familiar with the school and didn't know where their rooms were, or anything?

A At Riverside, you mean?

Q At Riverside.

A Yes, I would agree to that.

Q And the same thing was true of the teachers?

A Yes.

Q There was a tremendous job of rescheduling classes and what not?

A Classes were scheduled when we got there, so I don't know if there was problems in rescheduling the classes [98] and teachers or not.

BY THE COURT:

Q Well, I guess you had a problem when you moved down to Riverside.

A Yes, sir.

Q But you had it solved, I presume.

A Well, I guess you could say it became a problem.

Q All right.

A We were told when we got there that we were still using the same roll books. We would still have the same classes that we had at O'Bannon and the roll books wouldn't change whatsoever.

I think the question was asked as to why we had moved if we were going to keep our same classes that we had at O'Bannon.

BY MR. ROBERTSHAW:

Q All right. Now, is it not a fact that a meeting was held during this one or two week period and drew up this document that we have here?

A I have no knowledge of the time that this was drawn up but I don't think it was during that particular time. This is very hard to see, but I believe it says, "We are distressed that no member of the former O'Bannon faculty or administrative staff was consulted or advised regarding the proposed schedule and teaching assignments that were [99] offered January 29th, 1970 in a general faculty meeting."

But there was another one there, Number 4, I believe, which said, "We are distressed that former O'Bannon Assistant Principal, Mrs. Millicent Jackson, was not presented to the High School faculty or her responsibilities outlined to the faculty."

Now, it seems to me that that was some time—maybe that was at this particular meeting where we were told that we would keep our same roll books, and so forth.

Q All right, this meeting was held after the O'Bannon school closed, at the end of the first semester?

A Yeah. I believe that was on a Friday, yes.

Q And it happened before February the 2nd, which was the date—

A It happened the Friday before February the 2nd. I believe February the 2nd was on Monday. We had this meeting on that Friday, I believe.

Q Isn't it a fact that as a result of this meeting that word got out to the administration that O'Bannon teachers would not report for duty on February the 2nd?

A I don't know about the word, but we did get letters on hearsay.

Q You did get a letter?

A We got a letter. I received a letter from the Superintendent, I believe he left in my door, or somewhere [100] at home.

Q And in substance that letter said it was necessary that every teacher be present?

A Yes.

Q And if you were not going to be present that it was a condition of your continued employment?

A Yes.

Q All right.

A I received this letter, yes.

Q Now, going back behind that. Do you recall a meeting at the O'Bannon gym, prior to the order of January the 20th, when there was under consideration a plan for an ungraded school system at the lower levels; do you recall such a meeting?

A Not right off, no. No, I don't recall that.

Q I was present, and Mr. Morris was present, and one of the Trustees, I forget who, was present; do you recall that now, an evening meeting of the teachers?

A I recall one meeting.

Q And the parents.

A I recall one meeting that you were at O'Bannon.

Q You recall you were sitting in the front, the second row from the front, by Mrs. Gentle Rowser?

A No, I wasn't sitting beside Mrs. Rowser at the meeting.

[101] Q Well, where were you sitting?

A I think I was sitting approximately, about, almost half way of the left aisle.

Q Okay.

A On the same side. I think Mrs. Rowser was up at the front. I wasn't up there.

Q And you knew the purpose of the meeting was to acquaint the parents and the teachers and some of the students with the plans for the new type of school?

A I didn't know what the purpose of it was for.

Q Was the purpose announced when the meeting was opened?

A I don't know. I don't remember.

Q Well, isn't it a fact that at the very outset of the meeting Mrs. Rowser got up with a list of demands or requests and stated that unless they were acted upon that they would not stay? Do you recall that happening?

A I recall Mrs. Rowser being in a meeting, and I am not sure whether it was that particular meeting or a meeting concerning two black teachers that had been placed at Riverside and they were asking that they be returned to O'Bannon because those vacancies had not been filled.

Now, the meeting that you are talking about—there were a lot of meetings during that Fall.

Q Well, let me identify the meeting for you further.

[102] That when those demands of Mrs. Rowser were not met, then and there, between a third and a half of the people got up and left. Do you recall that?

A Yes, I recall that.

Q And in the meeting, did you stay or did you leave?

A I left.

Q And then as the meeting continued all of the people who left began blowing horns of automobiles?

A There may have been some horn blowing. I don't know.

Q Were you blowing your horn that night?

A No, I wasn't blowing any horn.

Q Did you hear horns being blown?

A It is possible. That has been quite a while back there. I don't know.

Q A lot of horns?

A Right now I can't recall any horns blowing. But it may have been, I said.

Q Okay. Now, while you were at Riverside, do you recall complaints being made by white students that you were downgrading their papers, giving them low grades?

A I haven't had any complaints about downgrading. When you say "downgrading", I don't understand that statement.

MR. ROBERTSHAW: [103] Would you indulge me just a moment?

THE COURT: Yes, sir.

(Mr. Robertshaw examining documents at counsel table.)

I think he meant by "downgrading", giving the white students a lesser grade than they were entitled to receive because they were white.

THE WITNESS: No, I haven't.

BY THE COURT:

Q You didn't receive any complaints along that line?

A No. I graded papers, whether they were black or white.

MR. ROBERTSHAW: If the Court please, I neglected to have the last letter marked as an exhibit.

THE COURT: All right, let it be marked as an exhibit.

(Defendants' Exhibit No. 7 received in evidence.)

BY MR. ROBERTSHAW:

Q Do you recall a student named Mona Lester?

A Lester?

Q Yes, ma'am.

A Yes, sir.

[104] Q Was she in your class?

A She was.

Q The Marshal has handed you a test on which there is a grade of 60.

A Yes.

Q Do you recognize that as Mona Lester's handwriting?

A It could be.

Q Did you grade that test?

A Yes, I did.

Q And was the requirement of the test that the nouns be circled?

A I don't know. There are no directions on here. I don't have the test. Do you have the test?

Q And on the back it says, "Do not write on back of paper."

A Yes, I did.

Q Now, there is a number 60 up there. Is that the grade you gave on this test?

A That was the grade I gave on this particular test.

MR. ROBERTSHAW: I would like that introduced into evidence, if the Court please.

THE COURT: All right, let it be received.

[105] (Defendants' Exhibit No. 8 received in evidence.)

Do you have the test?

MR. ROBERTSHAW: Sir?

THE COURT: Do you have what the test was? The nature of the test; do you have any record about what the nature of the test was?

MR. ROBERTSHAW: The nature of the test, as the witness has testified, is that all of the nouns were to be circled.

THE WITNESS: No, I didn't say that.

THE COURT: She didn't testify to that.

MR. ROBERTSHAW: All right.

THE WITNESS: I didn't say that.

THE COURT: That is the reason I asked you myself, she didn't.

MR. ROBERTSHAW: That is what I understood. I thank the Court.

THE COURT: [106] Yes, sir.

MR. ROBERTSHAW: Hand the exhibit back to her, please.

(Defendants' Exhibit No. 8 returned to the witness.)

BY MR. ROBERTSHAW:

Q What was the nature of the test, Mrs. Givhan?

A As I said, I don't recall the directions that I had given on this test, and I asked you if you had a copy of the directions. Because in dealing with English and in dealing with sentences you may be asking two or three different things in one sentence, or you could be asking for only one. So, at this particular time, I can't say whether I was asking for nouns or whether I was asking for nouns and adjectives, or whether we are dealing with subject and predicate adjectives, or predicate nominatives as they appear in the sentence. I don't know what I was asking for at that particular time.

Q Okay, look at the circled words that are not marked as incorrect. What do they have in common?

A The circled words and what?

Q That are not marked with an "X", what do they have in common?

A What do you mean, "What do they have in common"?

Q I mean, what do they have in common?

[107] A You said the ones, the sentences that are not marked with an "X"?

Q All right, let me narrow the question. Number 1—

A Yes.

Q —the word "speaker" is circled?

A Yes.

Q The word "class" is circled?

A Yes.

Q The word "individual" is circled?

A Yes.

Q The word "integrity" is circled?

A Yes.

Q Now, what do those words have in common, as a matter of English?

A They could be all nouns.

Q All right.

A And then when you talk about parts of speech, they could come under that heading.

Q Beg pardon?

A When you talk about parts of speech, they could come under that heading. They come under the heading of parts of sentences.

Q I will have to ask you to speak more slowly, I can't understand you, Mrs. Givhan.

They are all nouns, is that not correct?

[108] A Well, I haven't analyzed the sentence.

Q All right, analyze it.

A (Examined) Yes.

Q Now, in the second question or sentence, are they all nouns?

A Yes, they are all nouns. Now, there is a difference in sentence number one and sentence number two. Sentence number two is dealing with the name of something,

which is in quotations. If you will notice there, "God Bless our Home" is considered one word.

Q All right, is that why you marked that wrong?

A It could be possible. I don't know.

Q Well, what is the—

A As I said, I can't recall the directions that I gave in this. And to give you a true statement as to what happened there right now, I don't know the directions that I gave.

Q Okay, look at the third question, and the circled words, are they not all nouns?

A (Examined) Now, if you will look at the word "perseverance" in there, I circled that word in ink. The others are circled with pencil.

Q What word?

A In number two up here, also, the word "words" up there in number two has been circled in ink, which means I [109] did it. She did not circle that word. And in number four—

THE COURT: Now, he didn't ask you about number four. He will get to number four.

A Now, in number three, you will notice that you don't see any ink in number three at all.

MR. ROBERTSHAW: May I approach the witness, if the Court please?

THE COURT: Yes, sir.

BY MR. ROBERTSHAW:

Q That is the original that you have, is it not?

A This is the original, yes.

Q All right.

A You see, here I circled that showing her that she did not circle that word (Pointing). And in number four, I circled it showing her that she did not circle that word. And in number six, I circled it. You will notice it is in ink (Pointing).

I am showing her that she did not circle those words.

Q Well, now, if I may—

THE COURT: Was this a matter that was given consideration by the Principal when he decided that he would not [110] recommend this teacher for employment or is this something that has been resurrected since the lawsuit has started?

MR. ROBERTSHAW: No, sir.

THE COURT: As a basis for the justification?

MR. ROBERTSHAW: To give the Court what I am trying to get at, I am showing these activities, first, that they are taken into consideration as an accumulative matter, and second, that she was recommended for rehiring at the end of 1969 and '70.

The implication and the thrust of the evidence is going to show that she was not tendered a new contract on the basis of any activities that she may have taken.

THE COURT: Well, that is what I want to know. I want to know whether or not these matters were taken into consideration by Mr. Leach at the time he made the decision not to recommend her, because the question is whether or not she was discriminated against in his recommendation because she was a member of the black race.

[111] I can't consider things that have happened since that time that have been discovered and brought into the file with reference to it. I have to make a judgment on what happened at that time, what he had before him. So that is the reason I asked you whether or not Mr. Leach had all this before him, all this information in making his decision that he would not recommend to the Superintendent that she be reemployed.

MR. ROBERTSHAW: If the Court please, to be perfectly accurate, so that I will not mislead the Court, the recommendation was made by Mr. Leach on the basis of his experience with this teacher during the 1971-72 period.

THE COURT: He has testified to that.

MR. ROBERTSHAW: Yes, sir. The recommendation was acted upon by the Superintendent and by the Board on the basis of the adverse recommendation, and all of this material which was in the file and known to the Superintendent.

THE COURT: At the time?

MR. ROBERTSHAW: At the time—

THE COURT: [112] At the time the recommendation was made?

MR. ROBERTSHAW: The recommendation was made that she not be hired.

THE COURT: All right.

MR. ROBERTSHAW: Now, I am going to be hampered in that specific proof, and I was trying to get at it indirectly because Mr. Morris is just simply not in any physical condition to testify before the Court.

THE COURT: Well, all right.

BY MR. ROBERTSHAW:

Q Would you mark with this colored pencil on Exhibit 8 each word that you circled as opposed to a word circled by the student?

A What do you mean "mark it"?

MR. BANKS: This letter has not been identified as to the particular year when it occurred and we object to any further testimony about it.

THE COURT: Well, I am going to let him continue his examination about it. Of course I will have to find [113] out what connection it has with the refusal to hire or rehire this individual. That will have some bearing upon the weight and credibility of it.

You may proceed with your examination.

BY MR. ROBERTSHAW:

Q If you will, circle in orange ink each word on this exhibit that you originally circled.

THE COURT: Now, wait just a minute.

Q Are you marking on the original paper?

A Yes, I am marking on the original.

MR. ROBERTSHAW: Then mark on a copy.

THE COURT: Mark on a copy of it so the original stays just like it is. You can refer to the original in order to make the necessary entry on the copy.

(Witness marked in orange ink on a copy of Defendants' Exhibit No. 8.)

THE COURT: Now, let me have it so I can mark my copy.

(Marked copy handed to the Court by the witness.)

All right, thank you. You may introduce that or may have that attached to the original for the purpose of the record, Mr. Robertshaw, after you are through. [114] If you want to use it to cross-examine her, you may.

MR. ROBERTSHAW: All right, sir.

THE COURT: I would like it to be made a part of the exhibit so it will reflect the examination here.

MR. ROBERTSHAW: Let me offer it as Exhibit 9.

THE COURT: All right.

THE CLERK: Defendants' Exhibit No. 9 received into evidence.

MR. BANKS: Is Exhibit 8 and Exhibit 9 the same?

THE COURT: Exhibit 9 is a copy of Exhibit 8 with the words which this witness circled, after they had been circled by the student, and marked in orange.

BY THE COURT:

Q Is Mona Lester white or black?

A Yes, sir, she is white.

Q A white child?

A Yes.

(Document produced by Mr. Robertshaw; handed to the witness.)

[115] THE WITNESS: I had about sixteen whites in that room.

THE COURT: You may proceed.

BY MR. ROBERTSHAW:

Q I hand you another test.

THE WITNESS: Have you finished with this one (Exhibiting)?

MR. ROBERTSHAW: Yes, we are finished with that one.

THE WITNESS: Okay, I would like to make an explanation on it.

THE COURT: All right. Just a moment, she wants to make an explanation.

THE WITNESS: In sentence number six, in which the student circled the word "room", the proper thing that was supposed to have been circled, that is why I left that particular circle open that I made, was the word "dining room", because that is a compound noun.

And sentence number eight, where she circled "Grant" and then circled the word "Park", that was a proper noun, and it was one name, "Grant Park".

And the last word of that particular line, "Sue", [116] and under that line, "Smedley", that was a person's name, and I was letting her know that you don't circle "Sue" and then circle "Smedley", that it was a continuation there of one word.

MR. ROBERTSHAW: All right.

THE COURT: All right. She wanted to make that explanation.

BY MR. ROBERTSHAW:

Q Now, would you examine the other test that I have handed you?

A (Examined) Yes, I see it.

Q Is this also a test taken by Mona Lester in your class?

A Yes, it is.

Q And this is the grade that you gave?

A Yes, it is.

Q Now, if you look at the sheet attached to that and compare it with the test. Is that not simply a typed copy of the indistinct ditto. material?

A (Examined) Yes, this is taken from that.

MR. ROBERTSHAW: We offer that as Exhibit 10, if the Court please.

THE COURT: All right, it will be received.

[117] (Defendants' Exhibit No. 10 received in evidence.)

MR. BANKS: Is that the original, Your Honor?

THE COURT: Yes.

MR. ROBERTSHAW: It is the original.

THE COURT: Do you want to make an explanation about it?

THE WITNESS: About that?

THE COURT: Yes.

THE WITNESS: I don't know what he was driving at.

BY THE COURT:

Q But you recognize it as the results of a test you gave?

A Yes.

Q This person?

A Yes.

Q Mona Lester, I believe.

A Yes.

THE CLERK: Defendants' Exhibit No. 10 received into evidence.

[118] THE COURT: Mr. Robertshaw, it is 12 o'clock, so let's take a recess now until 2 o'clock this afternoon.

(Court recessed from 12:00 p.m. until 2:00 p.m. The trial then resumed in open court.)

THE COURT: Be seated, please. All right, you may proceed.

CROSS-EXAMINATION, RESUMED

BY MR. ROBERTSHAW:

Q Mrs. Givhan, do you recall an incident at Riverside in March of 1970 when a shakedown was conducted for weapons?

A I recall that, sir, yes.

Q Specifically, about March 16th or 17th.

A I can't recall the date of that.

Q And the students in your room were searched.

A Yes, the students in my room were searched.

Q Right. Now, were you charged with having taken up knives and weapons prior to the search?

MR. BANKS: Your Honor, we object to the testimony about March of 1972 and 1973. She was discharged in the Fall of '70 and '71.

THE COURT: The objection is overruled. This was in 1970?

[119] MR. ROBERTSHAW: March 17th, 1970.

(Document produced by Mr. Robertshaw; handed to the witness.)

BY MR. ROBERTSHAW:

Q The Marshal has handed you a memorandum from the Principal. I would like for you to read that and refresh your memory.

A (Examined) I am in knowledge of the incident but I am not in knowledge of the writing here. I did not get a copy of this, no.

Q I'm sorry. I didn't understand you.

A I said, I am in the knowledge of the incident but I am not in knowledge of the copy here. I have never seen a copy of this.

THE COURT: She says she has never seen a copy of it.

BY MR. ROBERTSHAW:

Q Does that fairly state the facts of the incident?

A (Examined) I didn't ask anybody in my room did they have a knife, no.

Q Specifically, did you take up any knives prior to the shakedown?

A One child gave me a knife.

Q What child?

[120] A I can't recall who it was. He was in my class.

Q Was it Roy Rogers?

A It could have been.

Q Did you give that knife back to this child after the incident?

A Yes, I did.

Q And later on that evening he cut another student with it?

A Well, I wasn't in knowledge of that until—I think it was Mr. Richardson mentioned that.

Q Do you know whether or not another child was cut later on during the day?

A I was told by Mr. Grisham, but I was not in knowledge of it.

Q Do you have any reason to disbelieve it?

A No, I don't have any reason to disbelieve it.

Q Were you also told that the student that did the cutting was Roy Rogers?

A He may have told me, but I didn't know Roy Rogers. He was not in my classroom.

Q I see.

A And I would like to comment on that. This particular student came to me and told me that he had a knife, and he asked me if I would keep the knife for him until school was out. And I told him, "Yes". And I told

him that I had [121] a class the last period in the afternoon and that he would have to come back and pick it up during the break, which was about 3 o'clock, I think the break was.

And I took that knife due to the fact of educating him. I told him that I would take this knife and I would give it back to him, and "I want you to put it in your pocket and take it home and don't bring it back anymore". And I did that as an act of education and discipline.

Q All right. Now, let me ask you this question: After this student had given you the knife, was there a search of the students in your room for knives and other weapons?

A Yes, there was.

Q Did you—

BY THE COURT:

Let me ask a question right there.

Q When you took the knife, did you know there was going to be a shakedown?

A I was informed by another teacher.

Q At the time you took the knife you knew that there was going to be a search?

A Yes, by another teacher. It wasn't from the administration.

Q But you had knowledge of the fact that the search was going to be made and was contemplated?

[122] A Yes.

THE COURT: All right.

BY MR. ROBERTSHAW:

Q Now, during the time that the people conducting the search were in your room did you advise them that you had this knife?

A Did I advise who?

Q The people who conducted the search.

A No, I didn't advise them that I had the knife.

Q And after the search was over, later on that day you returned the knife to Roy Rogers?

A I said at 3 o'clock, yes, sir.

MR. ROBERTSHAW: If the Court please, we would like to offer that as an exhibit, as Exhibit 11.

THE COURT: All right, let it be received.

(Defendants' Exhibit No. 11 received in evidence.)

MR. BANKS: She testified that this is a letter from Mr. Morris. I object to it being introduced. No foundation had been laid for its introduction.

MR. ROBERTSHAW: I believe she said it fairly stated the facts of [123] the incident.

THE COURT: I have ruled on it, Gentlemen.

MR. ROBERTSHAW: Excuse me.

THE COURT: I said it could be introduced. There should be no argument between counsel about it. Any remarks you have should be addressed to the Court about such matters.

MR. ROBERTSHAW: I apologize, Your Honor. I had no intention to—

THE COURT: It is received in evidence solely on the basis of what she said, that she recognized the incident and has testified about it.

THE WITNESS: The only statement in the classroom—

THE COURT: I understand.

BY THE COURT:

Q You stated that did not happen with reference to your classroom?

A Yes, sir.

Q You stated, though, that you received the knife from this boy after you knew they were going to have a [124] shakedown of the various classrooms?

A Yes, sir.

Q And that you returned it to him later?

A Yes, sir.

THE COURT: I will consider it for that purpose. Introduction of the rest of the statement would be pure hearsay.

BY MR. ROBERTSHAW:

Q Going now to the fall of 1970, in what capacity were you employed at Glen Allan?

BY THE COURT:

Just a moment. Let me go into this a little bit.

Q Who is this supposed to have come from? It doesn't show here.

MR. ROBERTSHAW: That is a memorandum from Mr. Grisham, the Principal of Riverside to the staff and faculty.

THE COURT: It doesn't show on it anywhere, at least that doesn't appear on it anywhere that he issued it. His name doesn't appear on it anywhere.

MR. ROBERTSHAW: No, sir. I asked if it fairly stated the situation and she said that it did.

THE COURT: [125] It will be received only for that purpose.

MR. ROBERTSHAW: All right.

BY MR. ROBERTSHAW:

Q In what capacity were you employed at Glen Allan Attendance Center?

A Junior High English teacher.

Q What were your duties in that position?

A To teach English.

Q To teach English?

A Yes.

Q And those were your only responsibilities, I mean, that is what you were hired for, to teach English, is that correct?

A Yes.

BY THE COURT:

Q Were you assigned any other duties?

A Hall duties during lunch periods, and hall duties during the breaks. You have to take care of the area around your room.

THE COURT: I understand.

BY MR. ROBERTSHAW:

Q And that was over and beyond your duties?

A Over and beyond my duties as a teacher, yes, sir.

[126] Q All right. Now, do you recall when the complaint about the N.Y.C. workers occurred?

A What do you mean; what date?

Q Yes, ma'am.

A I don't recall what date, but it had to be after approximately October the 6th, because we didn't have a principal prior to that.

Q Would you look at this letter, please, and tell me if it refreshes your memory?

BY THE COURT:

Q Is that October 6th, 1970?

A Yes, sir, I believe it was.

(Document handed to the witness by Mr. Robertshaw.)

BY MR. ROBERTSHAW:

Q Have you examined that?

A Yes.

Q Would you agree that the incident took place in early December?

A I can't testify to that.

Q Okay. When was your husband appointed the Assistant Principal at Glen Allan?

A I think it was after we returned from the Thanksgiving Holiday.

Q It was during 1970?

A Yes, sir, it was.

[127] Q And I believe you testified that it didn't look good to have all blacks in the administration office.

A Mr. Givhan was only appointed as Assistant Principal. His class load was not reduced. He was teaching four classes per day, and I don't call that assisting anybody. He had as many classes as I had.

Q My question was—I believe you testified that it didn't look good to have all—

A It didn't.

Q —all blacks in the administration office.

A It didn't, because he was not in the office.

Q And the administrative offices were all in a group, were they not?

A Yes.

Q And Mr. S. S. Jackson had his desk in those offices?

A Yes, he did.

Q What is his race?

A He is black.

Q And Mr. Givhan's desk was in those offices?

A He didn't have a desk.

Q He did not?

A Not to my knowledge. He had no desk.

Q He didn't move into the administrative office then?

A No.

Q When did he?

[128] A The next year, I understand.

Q You mean in 1971?

A Yes.

Q But during this same school year?

A Come again.

Q During the '70-71 school year?

A No, he didn't have an office during that year because he had classes.

Q I see. Now, Mrs. Hodges' office was also in the administrative offices, was it not?

A No, it wasn't. I wouldn't consider that the administrative office, no.

Q Was it right next to them?

A It was across the hall, down the hall.

Q In the same area?

A At one time it was.

Q At that time?

A At which time?

Q In early December of 1970.

A It is a possibility because I think she was put in a reading room in the library, and she said she was too far from the students.

Q So that there was at least Mr. Jackson and Mrs. Hodges who were black who were part of the administration, and I believe you testified that Mr. Givhan did not have an [129] office or desk during that school year.

A No.

Q Okay. Now, in the faculty meetings that were conducted during 1970 and '71, isn't it a fact that you did object to policies that were announced by the Principal?

A Well, if you will allow me to say this, I think we had two faculty meetings. One meeting was a week, I believe, after Mr. Leach was appointed Principal down there. And the next meeting was when he passed out intention slips for the next year. He called a meeting just prior to our leaving for the teachers meeting in Jackson. I think it was on Wednesday he passed out the intention slips and we had a meeting about that.

Q Is it your testimony that there were only two faculty meetings?

A There were only two, that I recall; only two.

Q Did you announce in the first faculty meeting that you were not going to give the achievement test?

A In the first faculty meeting?

Q Yes.

A No, I did not announce it in the first faculty meeting I would not give the achievement test.

Q Did you announce it prior to the time the test was to be given that you would not give the test?

A I don't think that I said that I would not give [130] the test, in those words, no.

Q What did you say?

A I said that I felt that the Counselor should give the test, should administer standardized tests.

Q All right, did you discuss this question with Mr. Leach?

A No, I hadn't. On that particular—

Q On any occasion.

A You are talking about that meeting or have you skipped to another occasion?

Q On any occasion prior to the time the test was actually given.

A On the morning of the test I think Mr. Leach approached me about the test, yes.

Q What did he say to you at that time?

A He said, "Mrs. Givhan, this is the morning of the test", and I said, "Yes, it is". And he said, well, something to the effect that Mrs. Hodges said that you said you were not going to give the test. And I said, well, I said, "I may have told Mrs. Hodges that I wasn't going to give the test", I said, but, "Number one, I still feel that it is the Counselor's duty to give the test". And I said, "Number two, that I have a lot of clerical work that I have to get off before Wednesday". And that was the next day, for the next day. I had to put grades on the cards. I hadn't turned in the grades to the [131] office, plus I hadn't finished grading my test papers. And I told him that I had all of that to do.

He said, "Well, I will get somebody else to do it", in essence, and I said, "Well, okay." He said, "Well, Mrs. Givhan", he said, "since you've got so much to do", he said, "you can sit there in the lounge", you know, "and work on your cards". I said, "No", I said, "I don't work

on school time in doing work like that". I couldn't deny my class to do work like that.

So, I told him, I said, "I will give the test, if you will send someone up there to help me".

Q But you knew, did you not, that it was the policy of the school to give that achievement test at the same time throughout the district, did you not?

A Yes, sir. I suppose it was the policy, yes.

Q That was so that no student could discuss with another student what the questions were?

A That is a possibility.

Q Because it was a standard test?

A That is a possibility.

Q All right. Now, there were three people in the room at the time the test was actually administered, weren't there?

A No.

Q Who was there?

[132] A Who was in the room?

Q Right.

A There were two people in the room.

Q Well, how many teachers were there in the room?

A There were two teachers in the room. That is what I am speaking of.

Q And who were they?

A Mrs. Butler and myself.

Q Mrs. Mary Butler?

A Yes.

Q And Mrs. Mary Butler was originally one of the plaintiffs in this action?

A Yes.

Q Was she not?

A Yes.

Q Was Mrs. Hodges in there at any time?

A No, I didn't see Mrs. Hodges in there. Mrs. Hodges, before the test started, she came to the room—. I have

to go back and give you my routine in the morning that I did.

I checked the roll. I didn't call the roll, I checked the roll, because the children were seated. And I always sent a student to the office to pick up the lunch tickets. And that process was going on at the time Mrs. Hodges came to the room.

[133] Mrs. Hodges came to the room. She said, Mrs. Givhan, I want your students. I said, "Why do you want my student's?" And she says, "I am going to take them to another room to give them the test". I says, "I am going to give the test. I told Mr. Leach this morning I was going to give the test". And so Mrs. Hodges backed on back out the door.

Q Who in fact gave the instructions for taking the test?

A I gave a portion of it and Mrs. Butler gave a portion of it.

Q All right. Now, do you recall the incident of the memorandum that you got with reference to setting the six week's tests?

A I beg your pardon, sir. It wasn't a six week's test, it was a semester test.

Q What kind of test was it?

A A semester test.

Q A what?

A A semester test.

Q A semester test?

A Yes.

Q Okay. And you objected to giving it at that time?

A No, I did not object to giving the semester test, no.

Q Well, what objection did you raise?

[134] A I raised the question of the time.

Q And what was that question?

A The question I asked Mr. Leach, I said, "Mr. Leach, have you taken into consideration the time element between the six week's test and the semester test?" A six

week's test you usually gave it on Thursday and Friday and you had the weekend, and the cards were due on Wednesday of the next week. That weekend you had to check your papers, record your grades, work out the average, record it in the office and then put it on the cards, and then you gave the cards out on Wednesday.

A semester test, to my knowledge, and the way I had given tests in the past, requires a longer test, and you have to have more time to grade that test. At O'Bannon, the years that I worked at O'Bannon, I don't know whether it was a district policy or not or a school policy, but we had two weekends and a week for a semester test. We gave it on Thursday and Friday, we had that weekend, we had the whole next week and then the next weekend, and then we gave out our cards the next week. And I was asking Mr. Leach, going through the chain of command, in which I was not supposed to go to the Superintendent but approach him as to the time.

Q Well, it was Mr. Leach's responsibility to set the time for the test, was it not?

A It was his responsibility, yes.

[135] Q And the other teachers found no problem with it, did they?

A I don't know.

Q I see, but you did?

A I found a problem of time, yes.

Q All right. Now, Mrs. Givhan, you know, do you not, that the cafeteria personnel are hired by the district?

A Everybody is hired by the district.

Q Well, the cafeteria personnel is run by the district and not by the principal, you knew that, didn't you?

A I didn't, no.

Q You did not know that?

A I thought all facets of the school was run by the principal, under his administration.

Q All right, who is the supervisor for the cafeterias in the district?

A I don't know.

Q Who was at that time?

A I think Mrs. Maddox.

Q Mrs. Maddox?

A I believe so.

Q Where was her office located?

A At the Central Office.

Q Who hired and fired the people in the Glen Allan cafeteria?

[136] A I don't know.

Q Who recommended them?

A I don't know.

Q What responsibility did you envision Mrs. Maddox as having?

A What do you mean, envision that she had?

Q What responsibility did you think Mrs. Maddox had with reference to running the Glen Allan cafeteria?

A All I know, she was supposed to have been District Cafeteria Supervisor. Now, what she did, I don't know.

Q Okay. Well, now, prior to the time that the person to whom you complained was hired to take up the tickets, who took the tickets up?

A I think they had two teacher aids to take up the tickets, and they were black.

Q Right. And isn't it a fact that they took up very few tickets?

A I don't know. I don't know anything about that.

Q Isn't it a fact that they didn't collect for any lunches?

A I don't know.

Q Isn't it a further fact that the E.S.E.A. people objected to the use of the teacher aids for that purpose?

A Not to my knowledge.

Q Not to your knowledge?

[137] A No.

Q What was your objection to the hiring of a white student to do that?

A Well, you said they didn't allow the teacher aids to do it. The person that was doing it, as I understand it, was a teacher aid.

Q All right.

A It was a white teacher aid.

Q Now, what responsibility was it of yours as an English teacher as to who ran the cafeteria?

A It wasn't my responsibility, but in my conversation with Mr. Leach, I told him that even the person in the cafeteria who was taking up the tickets was white. And this is why I spoke to him about all the choice jobs were white.

Q How many white people were there in the cafeteria?

A I don't know the number there was in there, but I know there was a lady, one white lady that was working on the—I don't know about the number.

Q As a matter of fact, the lady that was hired to take up the tickets was the only white there, wasn't she?

A No, sir.

Q Wasn't she?

A No, sir, she was not the only white. Miss Hughes was there.

Q All right, Mrs. Hughes?

[138] A Yes.

Q The supervisor, the manager of the cafeteria was black?

A Well, she was just there in person.

Q Beg your pardon.

A She was there in name, the same as Mr. Givhan was the assistant in name.

Q Now, as an English teacher what responsibility of yours was it to see where the N.Y.C. workers went?

A Because when I was at Riverside, when we had white N.Y.C. workers and black, the whites worked in the office and the blacks washed the windows.

Q My question was, as an English teacher at Glen Allan what responsibility was it of yours as to where the N.Y.C. workers worked?

A Well, I just wanted them to have the same opportunity as the white N.Y.C. workers had.

Q I don't think you understand my question. Isn't it a fact that it was not within the scope of your employment to deal with the N.Y.C. workers?

A I wasn't dealing with the N.Y.C. workers. I was pointing out to Mr. Leach the discrepancies there in the duties.

BY THE COURT:

Q But you had no duty to perform with reference to [139] the N.Y.C. workers, that is what he is trying to find out.

A No, I did not have.

Q You were just expressing your opinion?

A Yes.

Q That they were given the menial jobs?

A Yes, right.

Q Instead of the better jobs, and you were voicing an opposition to that program?

A Yes, sir.

BY MR. ROBERTSHAW:

Q Mrs. Givhan, isn't it your contention that you were not rehired because you are black?

A Sir? What?

Q Is it your contention that the reason you were not rehired is because you are black?

A Because I am black?

Q Yes.

A Because I am black and outspoken.

Q And what?

A Because I am black and I speak my opinion.

Q All right. Now, your husband, Mrs. Givhan, is also black, is he?

A Yes, he is. I hope so.

Q And he was appointed Assistant Principal during 1970-71?

[140] A During 1970-71, yes.

Q And he was reemployed in that position for the following year?

A Yes, he was.

Q And he is still in an administrative capacity in Western Line, is he not?

A You will have to ask him that.

MR. ROBERTSHAW: All right. I have no further questions.

THE COURT: All right. Anything on redirect?

MR. BANKS: Yes, sir.

REDIRECT EXAMINATION

BY MR. BANKS:

Q Mrs. Givhan, earlier in your testimony on cross-examination Mr. Robertshaw asked you about the teachers meeting at O'Bannon, I believe, or at Riverside. Which school was it?

A I think it was O'Bannon that he mentioned.

Q What was the purpose of having a meeting?

A The purpose of having that particular meeting was to restore two teachers that had been placed at Riverside.

Q How did these teachers come to be placed at Riverside?

[141] A Well, I think at that particular time they were integrating the faculties at all schools, so I was told, and Mr. Givhan and Mr. Clark Cathey—

Q Were they black or white?

A They were black.

Q All right.

A —in the Math and Science Department of the O'Bannon School were placed in the Riverside school.

Q Were any white teachers placed at the O'Bannon School?

A No.

Q Was anybody placed at the O'Bannon School to take the place of Mr. Givhan and Mr. Cathey?

A No.

Q Is that what it was all about?

A Yes. And I think this came before the judge, that these two teachers had been placed at Riverside against their will. And I think the judge ruled that they would have a choice, to either stay at Riverside or return to O'Bannon, and they did return to O'Bannon.

Q Does your husband have any difficulty with the administration since you have been terminated?

A Quite a bit.

MR. ROBERTSHAW: I didn't hear the question.

[142] THE COURT: He asked whether or not her husband had had any difficulty with the administration since she had not been reemployed and she said that he had.

BY MR. BANKS:

Q In what respect?

A Well, Mr. Givhan has been pressured from various angles. And a lot of—

THE COURT: Just a moment.

MR. ROBERTSHAW: I object to this. It is irrelevant.

THE COURT: Objection sustained. It may not be irrelevant, but it is hearsay. I sustain it on another ground.

MR. ROBERTSHAW: Yes, sir.

BY MR. BANKS:

Q Do you have personal knowledge of any of these pressures?

A Yes. I believe that was the year that he was recommended not to return to Riverside, I mean, to Glen Allan School. I think Mr. Leach had been in the hospital.

Q Were you present during any of this, is what I am asking.

[143] A Was I present?

Q Were you present?

A No, I wasn't present.

THE COURT: You see, he can testify for himself about that. You can't testify for him.

THE WITNESS: I see.

THE COURT: That would be hearsay.

THE WITNESS: Yes, sir.

MR. BANKS: We have nothing further, Your Honor.

THE COURT: You may step down. Are you through?

MR. BANKS: Indulge me for just a moment, Your Honor.

THE COURT: Just a moment. Just have a seat.

(Counsel for the plaintiffs conferring off the record.)

BY MR. BANKS:

Q Mrs. Givhan, have you ever graded white students differently from black students?

[144] A No, I haven't.

Q Now, with regard to the knife incident, why did you take the knife from the young man who gave it to you?

A Well, the expression you used, "take from", he gave me the knife. He asked me to keep the knife because at this particular time there were blacks thrown out of school by the twenties and twenty-five's. And one incident, they had to come to court on the hair case, and a number of them were getting thrown out of school. And,

you know, it was a series of incidents, a series of bomb threats. The children were put out of school.

And this particular morning I came in knowledge of the fact that there was supposed to have been a shake-down. And this young man came to me and told me that he had heard of the shakedown and, you know, he asked me to take his—would I keep his knife for him and I told him "Yes", that I would keep it until the end of school, but I had a class at the end of school and I would have to return it to him at the break at 3 o'clock.

And so at 3 o'clock he came back for the knife. And I told him then, I said, "You put that knife in your pocket, take it home and don't bring it back to school, tomorrow or any day, because anything that they can throw you out of school with, they will do it".

Q Did you have any knowledge he intended to get [145] into a fight that afternoon?

A No.

Q Did you have any knowledge about a fight brewing that afternoon?

A No, I didn't.

MR. BANKS: No further questions, Your Honor.

THE WITNESS: May I see Exhibit No. 10?

THE COURT: The witness wants to see Exhibit No. 10, please. Pass it up to her.

(Handed to the witness.)

THE COURT: Is that what you wanted to see?

THE WITNESS: Yes.

MR. ROBERTSHAW: Sir?

THE COURT: I says, the witness wants to see Exhibit No. 10. She wants to look at it. She asked me to have it shown to her and I am going to accede to her request.

(Examined by the witness.)

THE COURT: [146] Do you want to make a further explanation about that?

THE WITNESS: Yes.

THE COURT: All right.

THE WITNESS: Mr. Robertshaw didn't say what he was looking for in Exhibit No. 10. I don't know whether he was going just by the low grade or whether the information was correct.

THE COURT: Do you want to make some explanation about it?

BY THE COURT:

Q Did you grade it?

A Yes, I did.

Q Did you grade it correctly?

A Yes, I did.

BY MR. BANKS:

Q You have no problem with Exhibit No. 10 as to the way you graded it?

A No, I don't have any problems.

MR. BANKS: No further questions.

THE COURT: [147] All right, do you care to continue cross-examination?

MR. ROBERTSHAW: I have just one question, if the Court please.

THE COURT: All right.

RECROSS-EXAMINATION

BY MR. ROBERTSHAW:

Q Mrs. Givhan, who did call the meeting at the O'Bannon gym in the fall of 1970?

A You mean who sent out notices?

Q Who scheduled it, who called it?

A I don't know who called it. I don't know who asked that the meeting be held there. The information may have come from Mr. Williams that the meeting would be

there that night, or it may have been some of the parents. As I said, there were a series of meetings in which Mrs. Rowser was speaking in behalf of the parents and her children who had been without teachers for six weeks.

Now, as to who called the meeting, I don't know whether they called it and asked you and your Board and the Superintendent to be there. I don't know who called it.

Q How do you know what the purpose of the meeting was?

A You asked me a while ago if I knew the purpose and I told you I did not.

[148] MR. ROBERTSHAW: I see. Thank you.

BY THE COURT:

Q Now, this knife incident took place in March 1970?

A I can't recall the month. It was during the time I was at Riverside.

Q Did you teach the next year?

A Yes, I taught that summer, and I was rehired for the next year.

Q Had you ever been confronted with this kind of a charge?

A No.

Q Before?

A No. I didn't even know they had that on the record.

Q And you were rehired for the '70-71 school year?

A Yes, sir.

Q For the last time?

A Yes.

Q But you were not elected for—

A '71-72.

Q —'71-72?

A That's right.

Q But you were reelected for the year '70-71?

A Yes.

Q But you were not reelected for the '71-72 year?

[149] A Right.

THE COURT: All right.

MR. ROBERTSHAW: May I ask a few additional questions in view of the questions by the Court?

THE COURT: Yes. I was just trying to get the timing of these things.

MR. ROBERTSHAW: Yes.

BY MR. ROBERTSHAW:

Q As a matter of fact after that incident you were talked to rather severely by Mr. Grisham, who was the then Principal, were you not?

A Mr. Grisham didn't talk to me severely, as you are saying.

Q You were called into the office?

A I was not called into the office. He came to my classroom.

Q But you did have a conversation with him regarding this incident?

A He came to me and he told me that the description that the young man had given as to what teacher he had given his knife to seemed to have been me.

[150] Q Yes.

A And I was in my classroom and not in his office.

Q Did he chastise you or criticize you for it?

A No, he didn't criticize me.

BY THE COURT:

Q Did he have this knowledge at the time you were a teacher?

A Yes.

Q What did he say to you with reference to it?

A He just said, "You shouldn't have done that", and walked out. And I don't call that a reprimand.

Q That was Mr. Grisham?

A Yes, sir.

Q And he was a former Principal, is that right, of the school?

A Of Riverside, yes.

Q Where you were then employed?

A Yes.

THE COURT: All right, you may step down. Call your next witness.

(The witness resumed her seat at the counsel table.)

MR. BANKS: Arcell Jacob.

[151] AND THEREUPON,

ARCELL JACOB,

called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. BANKS:

Q State your name, Mr. Jacob.

A Arcell Jacob.

Q Where do you live?

A Greenville.

Q Where are you employed?

A Lake Village public schools.

Q In Arkansas?

A Yes, Arkansas.

Q How long have you been employed there?

A This is my second year.

Q Where were you employed before you were employed at Lake Village?

A Western Line District.

Q What school did you work at?

A Glen Allan.

Q In what capacity?

A Teacher.

[152] Q Were you there in 1970-71?

A Yes, I was.

Q Did you know Mrs. Givhan?

A Yes, I did.

Q Do you know Mrs. Dollye Hodges?

A Yes, I do.

Q Do you know Mr. Leach?

A Yeah.

Q I draw your attention to an incident involving the standardized test in the fall of 1970. Do you recall that incident?

A Yes, I recall it.

Q Do you recall going to Mrs. Givhan's room on that day?

A Yes, sir.

Q Would you tell the Court whether or not Mrs. Givhan was administering the test?

A She was.

Q What was your position with regard to the test?

A To help with the test.

Q Did you have a home room at that time?

A No, I didn't.

Q Do you know Mrs. Mary Butler?

A Yes.

Q Did she have a home room at that time?

[153] A Not as I recall.

Q Were you both assigned to help the teachers administer the test?

A Yes.

Q Do you recall whether during the year 1970-71 Mrs. Givhan exhibited any hostile attitude toward Mr. Leach?

A No.

Q Did you notice any breakdown in the working relationship between Mrs. Givhan and Mr. Leach?

A No, I didn't.

Q Did you notice Mrs. Givhan and Mrs. Hodges in their relationship?

A No.

Q You did not notice their relationship?

A Their relationship was good, from my standpoint of it. I never did see any evidence of any disturbance.

Q Did you attend any of the faculty meetings that were had?

A Yes, I did.

Q Can you tell the Court whether or not there were any disruptions during any of the faculty meetings because of any discussions between Mrs. Hodges and Mrs. Givhan?

A No, there wasn't any disturbance, I would say, between those two ladies, Mrs. Hodges and Mrs. Givhan.

Q Now, did you work there also in '71-72?

[154] A Yes, sir.

Q Was Mrs. Hodges also there?

A Yes, she was.

Q Did Mrs. Hodges demonstrate any lack of emotional stability during those years?

A No, she didn't.

Q What was Mrs. Hodges performance during the years 1971-72?

A As Counselor.

BY THE COURT:

Q Were you there during '71 and 72?

A Yes, I was.

Q And you left there at that time?

A Right.

BY MR. BANKS:

Q You say Mrs. Hodges was the Counselor in '70 and 71?

A Yes, she was.

Q What duties did she undertake in 1970-71?

A Well, she—as far as I know, I really don't know. I wasn't a member of the administrative staff.

Q Did you see her carrying out administrative duties?

A Yes, I did.

Q Did she carry out many administrative duties?

A From my standpoint, yes.

[155] Q Did she have any difficulty in carrying out her administrative duties?

A Not to my knowledge she didn't.

Q Did you ever see her break down and cry, or do anything like that?

A No, I didn't.

MR. BANKS: That is all the questions we have.

THE COURT: You may take the witness on cross-examination.

CROSS-EXAMINATION

BY MR. ROBERTSHAW:

Q Mr. Jacob, you were hired in 1970 and '71?

A Right.

Q As a social studies teacher—

A And a coach.

Q —and a coach?

A Yes, sir.

Q And then you were transferred to remedial reading?

A Right.

Q And coaching?

A And coaching.

Q And then the E.S.E.A. ceased to fund physical education?

A I really don't know if they ceased to or not.

[156] Q Well, you were not rehired in 1973-74, were you?

A No, I wasn't.

Q You were there three years?

A I was there three years.

MR. ROBERTSHAW: That is all the questions I have, Your Honor.

THE COURT: All right, you may step down.

(The witness withdrew.)

Call your next witness.

MR. BANKS: We call Sheryle Ann Molette.

AND THEREUPON,

SHERYLE ANN MOLETTE,

called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANKS:

Q Would you state your name?

A Sheryle Ann Molette.

Q Where do you live?

A Glen Allan, Mississippi.

Q Do you attend school?

A Yes, sir. I am a senior this year at Glen Allan High.

[157] Q Are you graduating?

A I will graduate May the 14th.

Q Did you attend school in Glen Allan in 1970-71?

A Yes, sir, I did.

Q What grade were you in?

A Eighth.

Q Do you know Mrs. Bessie Givhan?

A Yes, sir, I do.

Q Was she one of your teachers?

A Yes, sir, she was my English teacher.

Q To your knowledge did Mrs. Givhan discriminate against you because you are white?

A No, sir, she didn't.

Q In grading?

A No, sir, she didn't.

Q To your knowledge did she discriminate against anybody because they were white in her grading?

A No, sir.

Q Have you sensed any racial animosity in Mrs. Givhan?

A Not to me, and not to anybody else that I know of.

Q Were there any disputes between Mrs. Givhan and Mrs. Hodges in the presence of your class?

A Not while I was there. Not in front of me there wasn't.

Q Were there any disputes between Mr. Leach and [158] Mrs. Givhan in the presence of your class?

A No, sir.

Q Was there any class disruption during that year in Mrs. Givhan's class?

A No, sir, none at all.

Q Did Mrs. Givhan seek to get students to protest anything during that year?

A No, sir.

Q Did she ever discuss her differences with the administration of the school district in her class?

A You mean to us students?

Q To her students.

A No, sir.

Q Was there any disturbance of any kind in the classroom when Mrs. Givhan taught you eighth grade English?

A Well, I don't understand.

Q Were there any disputes brought to the attention of the class that maybe interfered with class work, or anything like that?

A No, sir.

Q Did you sign a letter to Mr. Leach and Mr. Morris, Exhibit 2 in this case, with regard to Mrs. Givhan?

A Yes, sir, I did.

Q Were you supporting her retention?

A Yes, sir.

[159] Q Do you still support her retention?

A Yes, sir.

Q Now, the letter also mentions a counselor. Did you have much contact with Mrs. Hodges as an eighth grader?

A Not much because I came to the eighth grade in the second semester. And outside of her assigning my classes and showing me around, that was practically it.

Q Were you there also in the ninth grade?

A Yes, sir.

Q Did you have occasion to come in contact with Mrs. Hodges in the ninth grade?

A Only when she called meetings for the whole class, you know. You know, telling us things that we needed to know.

Q She did call meetings for the ninth grade class?

A I remember once she talked to us about studying, you know, that we should get down to our studying more.

Q This was a ninth grade class?

A Yes.

Q When you say "senior class", you mean in junior high school?

A I don't understand.

Q When you said "the senior class", did you mean the senior class in junior high school or the senior class in senior high school?

A The senior class in junior high school?

[160] Q You said the whole senior class. I wonder what you meant.

A I mean, when she called the class, she talked to us as a whole, and talked to us in the ninth grade that we should study because this is where we pick up our units.

Q This would be a ninth grade class?

A Right.

Q To your knowledge was she carrying on her Counseling activities when you were in the ninth grade satisfactorily?

A Yes, sir, she was.

MR. BANKS: No further questions, Your Honor.

THE COURT: All right, you may take the witness on cross-examination.

CROSS-EXAMINATION

BY MR. ROBERTSHAW:

Q You were in Mrs. Givhan's English class during 1970 and '71?

A I was in her eighth grade English class. I can't remember quite what year it was, '70 or '71. I can't remember what year it was.

Q But you were in her class at Glen Allan?

A Right.

Q But it was the first year after they reconstituted [161] the district, wasn't it?

A Yes, sir.

Q Were you in that class the whole year?

A No, sir, just a semester.

Q Just one semester?

A Uh-huh.

Q Which semester?

A The second.

Q The second semester?

A Right.

Q And you were not present during the first semester?

A No, sir.

Q Were there ever any meetings of that class from which whites were excluded, white pupils?

A No, sir. None at all.

MR. ROBERTSHAW: All right, thank you.

THE COURT: All right, you may step down. You may be finally discharged.

(The witness withdrew.)

Call your next witness.

MR. BANKS: Janie Carol Lewis, Your Honor.

THE COURT: [162] All right.

AND THEREUPON,

JANIE CAROL LEWIS,

called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANKS:

Q State your full name.
 A Janie Carol Lewis.
 Q Where do you live?
 A Glen Allan, Mississippi.
 Q Are you in school?
 A Yes.
 Q Where?
 A Glen Allan.
 Q What grade are you in?
 A Twelfth.
 Q Are you graduating this year?

BY THE COURT:

Q What grade?
 A Twelfth.
 Q Twelfth?
 A Yes.

BY MR. BANKS:

Q Were you at Glen Allan the full year?
 [163] A Yes.
 Q Were you taught by Mrs. Bessie Givhan?
 A Yes.
 Q What were you taught by Mrs. Givhan?
 A English.
 Q Do you know Mrs. Hodges?
 A Yes.

Q Was she there also?

A Yes.

Q Were any disputes between Mrs. Hodges and Mrs. Givhan brought to the attention of the class?

A No.

Q Did you witness Mrs. Givhan exhibiting any hostile attitude toward Mr. Leach, the Principal?

A No.

MR. ROBERTSHAW: I object to the leading.

THE COURT: The objection is overruled. I will take into consideration the opportunity she might have had to observe any of it.

I am going to overrule the objection.

BY MR. BANKS:

Q Were there any class disruptions that was caused by any dispute between Mrs. Givhan and the Administrator?

[164] A Not that I can recall.

Q Was there any discrimination on the basis of race in your class?

A No.

BY THE COURT:

Q For the record, now, what is your race?
 A Black.
 Q You are black?
 A Black.

THE COURT: That is for the record. I want the record to show that. And let the record show the previous witness was white.

MR. BANKS: Yes, sir.

Q Did you witness any disputes in the presence of the students between Mr. Leach and Mrs. Hodges or Mrs. Givhan?

A No.

Q Did you sign a letter in support of Mrs. Givhan back in 1971?

A Yes.

Q Did that letter also mention the Counselor? Do you remember it mentioning the Counselor in that letter?

A Yes.

Q Did that refer to Mrs. Hodges?

[165] A Yes.

Q Was that a part of what you were complaining about?

A No.

Q Were you a ninth grader in Glen Allan in 1971-72?

A Yes.

Q Were you counseled by Mrs. Hodges?

A Yes.

Q To your knowledge was she carrying out her counseling duties satisfactorily?

A Yes.

MR. BANKS: Nothing further, Your Honor.

THE COURT: You may take the witness on cross-examination.

CROSS-EXAMINATION

BY MR. ROBERTSHAW:

Q Is it Miss Lewis or Mrs. Lewis?

A Miss.

Q Miss?

A Yes.

Q Miss Lewis, you went to Glen Allan in the fall of '70 and '71?

A I guess so.

Q Well, let me put it this way: Were you in Western Line the year before you went to school in Glen Allan?

[166] A I have been in Western Line ever since the third grade.

Q All right.

BY THE COURT:

Q Before you went to Glen Allan what school were you in attendance?

A Myersville.

Q Where?

A Myersville Elementary.

BY MR. ROBERTSHAW:

Q The year before you entered Glen Allan you went to school at Myersville?

A When you say "Glen Allan", are you speaking in terms of the High School? Because I went to Moore Elementary too.

Q Well, I am speaking of Glen Allan High School in the school year 1970 and '71.

A Yeah.

Q Right. You will recall that was the first year in which the district was reconstituted after all of the high school students had been sent to Riverside?

A Yes.

Q When you first got to Glen Allan High School how would you describe discipline?

A Discipline. Just, you know, like discipline.

[167] BY THE COURT:

Q How did the boys and girls act? Was it bad, or good, or what, or unruly, or what, when you first went there?

A They acted natural.

BY MR. ROBERTSHAW:

Q Beg pardon?

A Natural.

THE COURT: She said they acted just like boys and girls do.

BY MR. ROBERTSHAW:

Yes, sir.

Q Were they in the halls between classes and during classes?

A I don't know, because I was in class myself. How could I watch the halls?

Q Well, were there any problems between the teachers and the students when you first began school there?

A Not that I can recall.

Q None that you can recall?

A (No response.)

MR. ROBERTSHAW: Thank you.

THE COURT: Is there any reason why this witness may not be finally discharged?

[168] MR. BANKS: No, Your Honor.

MR. ROBERTSHAW: No, Your Honor.

THE COURT: All right, you may be discharged. That means you are released from the Rule. You can go wherever you want to.

Call your next witness.

(The witness stepped down.)

MR. BANKS: Your Honor, we have no other testimony. We want some clarification on one of the stipulations.

THE COURT: All right.

MR. BANKS: Could we have stipulation No. 5?

THE COURT: All right. Exhibit No. 5?

MR. BANKS: Exhibit No. 5.

(Document produced by the Clerk, handed to Mr. Banks.)

(Mr. Banks and Mr. Robertshaw conferring off the record.)

[169] MR. BANKS: Your Honor, we would like to get copies of the document which explains some of the codes that are on this document.

THE COURT: All right.

(Copies of a document produced by Mr. Banks provided by the Court.)

MR. BANKS: I would like permission to recall Mrs. Hodges for the sole purpose of explaining something on this document.

THE COURT: All right, come around, Mrs. Hodges. AND THEREUPON,

DOLLYE W. HODGES,

recalled as a witness on behalf of the plaintiffs, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANKS:

Q Mrs. Hodges, in 1969-70, and I am talking about your certification now, how were you certified?

A I was certified in 1969-70 as an elementary teacher, up until January of 1970.

Q And were you certified as an elementary teacher [170] in '70-71?

A In '70-71 I was certified as a guidance counselor on an 18-hour permit.

Q In '71-72 how were you certified?

A In '71-72 I was certified as a guidance counselor on an AA license?

Q A double-A license?

A A double-A license.

Q What had occurred that caused you to have a double-A license?

A I had received my degree from Mississippi College May 30th, 1971.

Q In 1971?

A Yes, sir.

Q And you had a double-A certificate, which was in guidance counseling?

A My double-A certificate endorsement was in guidance counseling, and I had previously been an elementary major, so "elementary" was on it.

MR. BANKS: I see. Nothing further, Your Honor.

THE COURT: Do you care to ask the witness anything?

MR. ROBERTSHAW: If the Court would indulge me, I think I have a [171] certification here. I would just like to check her responses, then I may have some questions.

THE COURT: All right, sir.

MR. BANKS: I would like to offer this document as an exhibit by stipulation, Your Honor.

THE COURT: All right, let it be received.

(Stipulated Exhibit No. 6 received in evidence.)

CROSS-EXAMINATION

BY MR. ROBERTSHAW:

Q Mrs. Hodges, the effective date of your certification as a guidance counselor was from September the 1st of '70 to August the 31st of '71, is that correct?

A Yes, sir. That is the permit.

Q And during that time you had a class-A certificate?

A Yes, sir.

Q And your class double-A certificate took effect 9-1-71?

A Yes, sir.

Q And is a 10-year certificate?

A Yes, sir.

MR. ROBERTSHAW: Thank you.

[172] MR. BANKS: Nothing further, Your Honor.

THE COURT: Anything else?

MR. BANKS: We would like to withdraw the original tax records of Mrs. Givhan and substitute a copy for those.

THE COURT: All right. Do you have copies?

MR. BANKS: We don't have copies, Your Honor. If I could get copies made.

THE COURT: All right. You may step down.

(The witness stepped down.)

MR. BANKS: With that we rest, Your Honor.

THE COURT: Call the first witness for the defendant.

MR. ROBERTSHAW: We will take Mr. Leach.

THE COURT: All right, Mr. Leach, come around.

AND THEREUPON,

JAMES S. LEACH,

[173] called as a witness on behalf of the defendants, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ROBERTSHAW:

Q During the year 1971 and 1972, Mr. Leach, you were Principal of Glen Allan High School?

A Yes, sir.

Q Was one of your duties to prepare evaluation sheets on each teacher?

A Yes, sir.

Q All right, sir, did you prepare an evaluation sheet on Mrs. Hodges?

A Yes, sir.

(Documents produced by Mr. Robertshaw, handed to the witness.)

Q Is that your evalaution sheet on Mrs. Hodges?

A Yes, sir.

MR. ROBERTSHAW: We offer that as an exhibit.

THE COURT: All right, let it be received.

THE CLERK: Defendant's Exhibit No. 12 received into evidence.

(Document produced by Mr. Robertshaw, handed to the witness.)

[174] BY MR. ROBERTSHAW:

Q Who was Assistant Principal during that school year?

A Mr. Givhan.

Q And he worked directly under your supervision and control?

A Yes, sir.

Q All right, sir, did his duties also include the preparation of an evaluation report on teachers?

A Yes, sir.

Q And those were prepared on forms that are used in the normal course of the school's business?

A Yes, sir.

Q Is the document the Marshal has handed you the evaluation by Mr. Givhan for March the 9th of '72?

A Yes, it has his signature on it.

Q That was prepared under your supervision and control?

A Yes, sir.

BY THE COURT:

Q What do you mean, it was prepared under your supervision and control? Did you direct him to make it out in the way it is made out?

A No, sir.

Q What do you mean?

A He made it out. I mean, I asked him to help me [175] evaluate the teachers. I wanted his evaluation and my evaluation also.

Q You requested him to give you an evaluation on a proper form?

A Yes, sir.

THE COURT: All right.

MR. ROBERTSHAW: We offer that as an exhibit.

THE COURT: All right, let it be received.

THE CLERK: Defendants' Exhibit No. 13 received into evidence.

BY MR. ROBERTSHAW:

Q During the school year 1970-71 did you also evaluate Mrs. Givhan?

A Yes, sir.

(Document produced by Mr. Robertshaw, handed to the witness.)

Q The document that the Marshal has handed you, is that your evaluation of Mrs. Givhan as of April the 16th, 1971?

A Yes, sir.

MR. ROBERTSHAW: We offer that as an exhibit.

THE COURT: [176] Let it be received.

THE CLERK: Defendants' Exhibit No. 14 received into evidence.

MR. ROBERTSHAW: We have no further questions.

THE COURT: All right, you may take the witness on cross-examination.

MR. BANKS: No questions.

MR. ROBERTSHAW: Excuse me, Judge. There is something in the back of my mind. Would you indulge me for just a second, because it is something I need to bring out from this witness.

THE COURT: All right, sir.

MR. ROBERTSHAW: May I request that he be released and I have the opportunity to put him back on for a limited purpose?

I frankly can't recall, but I do think it is important.

THE COURT: All right, you may have that right. All right, you may cross-examine the witness.
 [177] MR. BANKS: Your Honor, before I cross-examine the witness, may I see Exhibit 13?

THE COURT: All right, sir.

(Examined by Mr. Banks.)

MR. BANKS: No questions.

THE COURT: All right, you may step down, with the right to recall him for that additional purpose.

MR. ROBERTSHAW: Thank you, Your Honor.

THE COURT: All right, call your next witness.

MR. ROBERTSHAW: I take Mr. Hiram Cochran.

AND THEREUPON,

HIRAM T. COCHRAN,

called as a witness by the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ROBERTSHAW:

Q Would you state your name, please?

A Hiram T. Cochran.

[178] Q How old are you, Mr. Cochran?

A Sixty-two years old.

Q Are you a member of the Board of Trustees of Western Line Consolidated School District?

A I am.

Q And for how long have you been a member?

A Since it was organized.

Q Do you recall what year that was?

A I believe it was 1954. I am not real sure about that date, but it was thereabouts.

Q And you are President of the Board?

A At present I am, yes.

Q And how long have you been President?

BY THE COURT:

Q Were you duly elected?

A Yes, sir.

Q In the general election last year?

A Yes, sir.

THE COURT: All right. That is what I thought. I just wanted to be sure.

MR. ROBERTSON: Sir?

THE COURT: I said I wanted to be sure of my interpretation [179] of the manner in which he received his position throughout the years.

It is an elected position as distinguished from an appointed position by the Board of Aldermen or by the Board of Supervisors, or someone on the Board?

MR. ROBERTSHAW: Yes, sir.

Q Western Line is a line consolidated school district?

A Right.

Q And one Trustee is elected each five years?

A Right.

Q Except to fill vacancies.

A That is correct.

Q And you were elected by the people of the entire district, is that correct?

A That is right, except the part that lies in Issaquena County.

Q I see. And they elect one of the five Trustees?

A Right.

Q You are also President of the Board of Trustees?

A That is right.

Q And how long have you been President of the Board of Trustees?

A I am not real sure, but it has been, oh, I think in the neighborhood of about fifteen years, I believe.

[180] Q You have been back behind 1966 anyhow?

A Thereabouts. 1960, yes, sir.

Q Do you recall the order that was entered in this cause on January the 2nd, 1970?

A By this Court?

Q Yes, sir.

A Yes, sir.

Q And pursuant to that order what was done? How was the District constituted?

A Well, if I remember, the thing that happened on that date, we had a period there of—I don't remember if it was a week or two weeks—that we didn't have any school to get our school system reorganized. And we moved the teachers around and the children around to where we felt that they would coincide with the orders of the Court. And, presumably, they did because the way we did it that time, so far as I know, was accepted by this Court.

Q Well, in accordance with the Court's directive all of the high school pupils were put at Riverside, were they not?

A That is right.

Q And all of the elementary students were put at O'Bannon or Glen Allan?

A That is correct.

Q Depending upon where they lived?

[181] A That is right, according to where they lived.

Q What kind of a situation did we wind up with at Riverside?

A Well, for the rest of that semester we had a situation that was, oh, it was pretty rough, as I can remember, so far as discipline is concerned. We had three communities that had gathered in one place and there was friction, it seems to me, as much between the blacks and the blacks as there was between the whites and the blacks. But there was kind of a state of unrest among the whole student body there the rest of that year.

Q And in that summer, by agreement with the plaintiffs, we entered a new order that set up an attendance zone system?

A Right.

Q So that we would have a complete attendance center at O'Bannon, Riverside and at Glen Allan?

A That is right. We had three complete attendance centers.

BY THE COURT:

Q You mean all grades?

A Yes, sir.

Q All grades, one through twelve?

A Yes.

MR. ROBERTSHAW: Grades one through twelve at each center, yes.

[182] THE COURT: All right.

BY MR. ROBERTSHAW:

Q And when was the District so reconstituted, at the beginning of what school year?

A I believe that was at the beginning of the 1970-71 school year.

BY THE COURT:

Q '70 and '71?

MR. ROBERTSHAW: '70-71, yes, sir.

A I believe the latter part of '70 we were complying with the Court's order. '70 and '71 was a new year, and we had had this last semester with the school center at Riverside which didn't work out satisfactorily to anybody, I don't think.

BY MR. ROBERTSHAW:

Q Now, since the opening of the school year 1970 and '71, what problems have we had with maintaining desegregated schools?

A Well, it seems to me that discipline is one of the problems with the children. And of course we have had some problems with teachers. To begin with the teachers had to be moved around to comply with the Court order. Maybe they were living in one town and had to work in another. That wasn't very satisfactory to them.

[183] But since then, in the last two or three years, I feel like our whole school system is upgraded considerably from what it was at the time that we first integrated our schools. It seems that our discipline is better and the acceptance of our blacks accepting the whites and the whites accepting the blacks has improved, oh, I would say a hundred percent better than it was to begin with.

Q All right, sir. Now, since the beginning of the 1970-71 school year students have been assigned to a school depending upon where they lived, is that correct?

A That is correct.

Q And what control has been maintained over zone jumping?

A Well, we had a problem with that for a while, but so far as I know it has been corrected in the last two years, I believe.

Q All right, sir. So what influence does the race of the pupil have upon his assignment?

A Not any.

Q All right, sir. Now, with reference to teachers, what influence has race had since 1970 and '71 upon the assignment of teachers?

A Well, it had to have enough influence upon us that we had to keep in mind the order that we had from this Court, in that we would be in compliance with it, and also trying [184] to find the teachers that would fit into the places where they were needed and still be in compliance with the order of the Court, which, it wasn't an easy problem, especially to begin with. There was insubordination, lack of cooperation, and it looked like

everything that could bother a school system was bothering us there for, oh, I don't know, maybe—seems to me like about three, maybe four years. Well, it was about two years, maybe, that things began to show some improvement.

Q In other words, what you are telling us is that after the first year—

MR. BANKS: Objection. Leading, Your Honor.

THE COURT: Well, the objection is overruled. It is leading, I will have to acknowledge that, but for the purpose of going along with the evidence in the case, I think if it is suggestive enough to direct his testimony in the case I will sustain it, but if it is just a presentation to the Court of what has happened, I am going to overrule.

Go ahead, but try not to lead him as much as you can.

MR. ROBERTSHAW: I will withdraw the question.

THE COURT: All right. I know it is a little bit easier to [185] lead him, and we will get through quicker, but then ask him the questions according to the rules, if you will.

BY MR. ROBERTSHAW:

Q Would it be fair to describe—

THE COURT: Why don't you ask him how he would describe it or something like that and let him say how it is done.

BY MR. ROBERTSHAW:

Q How would you compare the situation in the second semester of 1969 and '70 with the school year '70-71?

A Oh, it has improved a good deal from the first part of '70, between that semester of '70 and '71.

Q All right, sir.

A But we still had problems.

BY THE COURT:

Q In other words, it improved beginning with the school year '70-71? After the spring and early summer of 1970, that fall and that winter, it improved to some extent, is that what you are saying?

A Yes, sir.

Q But you still had problems?

A Yes, sir.

THE COURT: All right, sir.

BY MR. ROBERTSHAW:

[186] Q And what progress was made during '71-72?

A Well, we began to find the things that exist in any new organization that involved as many people as there are involved in a school district, and the number of schools and the number of teachers in our district. There had to be a number of things that we had to get corrected since our organization. And, as we began to find those things and correct them and get the people in the places where they worked the best, why things began to improve.

Q All right, sir. Now, directing your attention to the time when Mrs. Givhan's name came up for recommendation or not recommendation, do you recall that meeting of the Board?

A Yes, I do.

Q What recommendation did you receive from the Principal regarding Mrs. Givhan?

THE COURT: How about from the Superintendent? Wouldn't he be the person that would recommend it to the Board, rather than the Principal?

MR. ROBERTSHAW: It is done at that level.

THE COURT: I understand, but it never got to the Board. The Superintendent didn't make it.

[187] BY MR. ROBERTSHAW:

Q All right, sir, what recommendation did you get from the Superintendent?

A For the rehiring of Mrs. Givhan?

Q Yes, sir.

A For the school year of '70 and '71?

Q No, sir, for the school year of '71 and '72.

A '71 and '72, she was not recommended.

Q All right, sir. Now, in pondering the question of whether to accept or reject the Superintendent's recommendation, what factors did you as a member of the Board discuss with the other members?

A Well,—

THE COURT: Mr. Robertshaw, did the Board have anything to do with this situation, if a teacher is not recommended? The Board can't hire a teacher unless that teacher is recommended by the Superintendent. The Superintendent has to have the recommendation from the Principal, doesn't he, under State law; isn't that the way it works?

MR. ROBERTSHAW: As I understand the State law, the Board has a right to accept or reject the recommendation of the Superintendent.

THE COURT: [188] If the recommendation is made. But here there wasn't any recommendation made to employ this person. They just didn't get it. They just didn't get around to it because there wasn't any recommendation made.

MR. ROBERTSHAW: I think, if the Court please, the way it is worked is that the Board goes into executive session and then considers the teachers that are not to be tendered new contracts.

THE COURT: That may be true, but I didn't know that was the law.

MR. ROBERTSHAW: Let me bring that out.

Q How does the Board act on teachers who are not recommended for rehiring?

A The Board will go into executive session, because that is discussing personal things about individuals. And we review the reasons why the Superintendent did not recommend the rehiring of this person. And after that review is over, after we have had some discussion about it, why then the Board comes to some conclusion as to whether or not this person will be rehired.

BY THE COURT:

Q Even though they are not recommended by the [189] Principal of the school; do you consider rehiring people who are not recommended by the Principal himself? Does the Board consider overruling the Principal and the Superintendent of the school when a recommendation is not made to the Board, to go into executive session and overrule them and hire them anyway if you want to?

A No, sir, we have not, Your Honor. But I have always felt that we had that privilege to do that if we saw the facts that pointed in that direction, that this was maybe a capable person and was a person that we should keep in our employ. That there might possibly be some prejudice between the Superintendent and this individual that had come before us.

And we never rehired her, but at the same time we never, as I can remember, it was never where we felt there was anything personal between the teacher and the Superintendent, or the teacher and the Principal, for the reason that they were not recommended. That it was always some good and just reason for not rehiring a person.

Q In other words, what you are saying to the Court is that you counsel with your Superintendent over his decision—

A Right.

Q —not to recommend—

A Yes, sir.

[190] Q —to see whether or not he might be led into the position, that he has made a mistake in the matter?

A That is right.

Q All right.

A That is exactly right, sir.

BY MR. ROBERTSHAW:

Q Is that procedure followed in the case of each teacher who is not tendered a contract for the new year, excepting those that resign or die, of course?

A To the best of my knowledge, it is. I don't remember an instance where it wasn't.

Q All right, sir. Was such a procedure followed in the case of Mrs. Givhan?

A Right.

Q Can you tell the Court, please, what factors you considered in counseling with the Superintendent and reaching a decision on Mrs. Givhan?

A Well, we came to a final decision that we would accept our Superintendent's recommendation. And I think our decision was based on actions that had been taking place from time to time, things that came to the knowledge of the Board. Sometimes maybe things that shouldn't have. But, anyway, as members of the Board we would hear rumors about it and we were concerned about it, about how the schools were getting along.

And at that time, if I remember right, there was [191] a lot of rumors going in every direction.

Q All right, sir.

A And Mrs. Givhan had been—her name had been mentioned in Board meetings before the time of the rehiring of the teachers. So, we had heard that maybe before, and some things that have been mentioned here in court, and maybe some others too.

BY THE COURT:

Q Did you give her an opportunity to listen to what was said against her, give her a hearing on that, or did you just take the rumors as being true?

A Your Honor, if I remember the situation as it occurred at that time, that when we didn't rehire Mrs. Givhan she asked the Board why, she wanted to know why. All right, we advised Mr. Morris to get in contact with Mrs. Givhan and ask her if she cared for us making those reasons public. And, if I remember correctly, she said that she did not, that she would meet with us. And we gave her the reasons.

Q Did you have any personal contact with her?

A No, sir, I did not.

Q It was all handled through Mr. Morris or some other party?

A The best that I can remember, it was.

THE COURT: All right.

[192] BY MR. ROBERTSHAW:

Q Specifically, at the time you were acting on Mrs. Givhan's contract, did the Board have knowledge of the incident at O'Bannon in the fall of 1970, or '69?

A You are talking about the meeting?

MR. BANKS: Objection to that. It is too broad. I don't know what he is talking about.

THE COURT: I don't either. I am going to let him answer it, if he can come up with an answer to it without asking his lawyer. The objection is overruled to the question. He can answer it, if he can.

BY THE COURT:

Q Do you recall the incident in the fall of '69 that came to the attention of the Board about Mrs. Givhan?

A Except the one that was mentioned here in court earlier.

Q What was that?

A Practically the same thing that the Court heard, that there was a meeting, the meeting was disrupted and the purpose of it was not fulfilled.

Q Was that in the fall of '69?

A Well, it was between the '69 and '70 year, there at the time that we were moving the teachers from one school [193] to the other to get the balance the Court had asked for.

THE COURT: All right, you may proceed.

BY MR. ROBERTSHAW:

Q Now, between the time of the order of January the 7th and the reopening of school on February the 2nd, can you tell us whether or not the members of the Board were aware of the meeting that was held by the O'Bannon teachers and the question as to whether or not they were going to come to work?

A I wasn't aware of it.

MR. BANKS: There has been no testimony there was such a meeting.

THE COURT: The objection is overruled. I think his answer is going to clear it up anyhow. Go ahead and answer the question.

A I wasn't aware of the meeting before it occurred, but Mr. Morris informed me of it.

THE COURT: I am going to sustain the objection to it on the grounds of hearsay, that he heard, rumors he heard, and things of that nature. That is all hearsay testimony.

MR. ROBERTSHAW: [194] Yes, sir. Now, if the Court please, I would like to ask about a point, because the only way the Board gets information is through reports made to it by the Superintendent at its meetings and the communications that are received in the normal course of business.

THE COURT: Mr. Robertshaw, I don't believe that in this case you are going to get by the recommendation of the Principal here, to get into what the Board did on rumors that they heard and reports that was made to it by the Superintendent, and things of that nature that this party didn't have any opportunity to refute or to answer, or anything else.

MR. ROBERTSHAW: All right, sir.

THE COURT: You may make a record on it if you want to, but I am going to sustain the objection to it.

If you want the benefit of it on appeal, you may ask him. Make a record on what you want to say, what he wants to testify to.

MR. ROBERTSHAW: I don't think so, if the Court please. Our difficulty is that—

[195] Is that Mr. Morris is not here, I understand.

MR. ROBERTSHAW: Yes. And everything a Board does is on hearsay.

They are sitting in a quasi-legislative function.

THE COURT: I don't agree that everything a Board does is on hearsay, and that the Board can just take rumors without giving the party an opportunity to respond to them and act upon them. That is foreign to me from a due process standpoint.

I don't think you can adjudicate the rights a person might have on the proposition of what somebody comes to you and tells you, or a rumor around the community.

Anything positively this gentleman knows about it, he can testify to, or anything shown on the minutes of the Board, or anything shown in the records of the school. But just to reach out into the community and get hearsay rumors, I don't believe that is competent.

MR. ROBERTSHAW: If the Court please, could we take the afternoon recess at this time and let me go through the Minute Book? I believe some of these communications are in that Minute Book.

THE COURT: [196] All right. We will be in recess now for fifteen minutes.

(Court in recess from 3:35 p.m. until 3:50 p.m.
The trial then resumed in open court.)

THE COURT: Be seated, please.

MR. ROBERTSHAW: If the Court please, may we get a couple of pages copied?

THE COURT: Yes, sir.

(Photographic copies of documents provided by the Court.)

BY MR. ROBERTSHAW:

Q Mr. Cochran, do you know whether or not a letter was received from Mrs. Givhan requesting the reason for her dismissal?

A Yes, sir, it came to the attention of the Board.

(Document produced by Mr. Robertshaw, handed to the witness.)

Q Is that the letter?

A Just a moment. (Examined) Yes, it is.

THE COURT: He says it is.

MR. ROBERTSHAW: [197] We offer that as an exhibit.

THE COURT: All right, let it be received in evidence.

THE CLERK: Defendants' Exhibit No. 15 received into evidence.

BY MR. ROBERTSHAW:

Q Do you know whether a reply was made?

A Yes, it was.

Q Would you examine this and see if this is the reply?

(Document produced by Mr. Robertshaw, handed to the witness.)

A (Examined) It is.

MR. ROBERTSHAW: We offer that as an exhibit.

THE COURT: All right, let it be received.

THE CLERK: Defendants' Exhibit No. 16 received into evidence.

(Document produced by Mr. Robertshaw, handed to the witness.)

BY MR. ROBERTSHAW:

Q Now, Mr. Cochran, you are now examining a reproduction of page 130 of the Minute Book of Western Line Consolidated School District, the minutes of a meeting held [198] I believe on July the 8th.

A Right.

Q You were present at that meeting?

A Right.

Q Could you read this paragraph, please (Pointing)?

A (Reading) Mr. Guy Storm and Mr. Clarence Hall, representing the Glen Allan P.T.A., stated that the P.T.A. at a meeting May the 25th—

MR. BANKS: Objection, Your Honor.

THE COURT: Just a moment.

MR. ROBERTSHAW: It is being reproduced.

THE COURT: It is an excerpt from the Minutes of the Board of Trustees of Western Line Consolidated School District. I don't know whether it constitutes hearsay evidence or not. I will let him read it then I will rule on it—rule on your objection to it.

THE WITNESS: Do you want me to start over?

THE COURT: Yes, sir, start over and read it.

A (Reading) Mr. Guy Storm and Mr. Clarence Hall, [199] representing the Glen Allan P.T.A., stated that the P.T.A. at a meeting May the 25th had voted to ask the Board of Trustees to consider giving Mrs. Bessie B. Givhan a contract. They were told that the Board did not feel that it should rehire Mrs. Givhan because of various

actions. Mr. Hall suggested that if the facts were given the P.T.A. might reconsider their request. He suggested that Mrs. Givhan be written a letter asking for permission to let the public know the reasons. Mr. Morris was instructed to write Mrs. Givhan.

That is the end of that paragraph.

BY MR. ROBERTSHAW:

Q All right, sir, was such a letter written?

A It was.

(Document produced by Mr. Robertshaw, handed to the witness.)

Q Is that a copy of the letter?

A (Examined)

THE COURT: It is the letter, I guess, signed by Mr. Morris and not by this witness.

A Right. This is the letter that we instructed Mr. Morris to write.

BY THE COURT:

Q Did you take it out of the files of the School District? Did you, Mr. Robertshaw?

[200] MR. ROBERTSHAW: Yes, sir. It was taken out of the personnel file of Mrs. Bessie B. Givhan. And copies have previously been furnished, at least they have inspected a copy of it.

THE COURT: Do you have the personnel file here?

MR. ROBERTSHAW: Sir?

THE COURT: Do you have the personnel file here?

MR. ROBERTSHAW: Yes, sir.

THE COURT: I just wanted to know if it is available. I haven't seen it. I don't know what is in it. I didn't know whether you are going to introduce what is in or not.

Go ahead. I just wanted to know if it was here.

MR. ROBERTSHAW: We offer that as an exhibit.

THE WITNESS: Do you want me to read this?

MR. ROBERTSHAW: No, sir.

[201] THE COURT: No, it speaks for itself.

MR. ROBERTSHAW: We will offer it in evidence.

THE COURT: Any objection?

MR. BANKS: I don't know what letter he is talking about yet, Your Honor.

THE COURT: Show him the letter.

(Documents tendered to and examined by counsel for the plaintiffs.)

Any objection?

MR. BANKS: No, Your Honor.

THE COURT: All right, let it be received.

THE CLERK: Defendants' Exhibit No. 17 received into evidence.

THE COURT: Go ahead.

BY MR. ROBERTSHAW:

Q Do you know whether a response was made to that letter?

[202] A It was.

(Document produced by Mr. Robertshaw, handed to the witness.)

A (Examined) This is it, the response.

MR. ROBERTSHAW: We offer that as Exhibit 18.

THE COURT: All right, show it to counsel.

(Document tendered to and examined by counsel for plaintiffs.)

THE COURT: Let it be received.

THE CLERK: Defendant's Exhibit No. 18 received into evidence.

(Document produced by Mr. Robertshaw, handed to the witness.)

BY MR. ROBERTSHAW:

Q Now, I have handed you a copy of a letter dated July the 14th. Is that the response to Mrs. Givhan's letter?

A This letter is dated July the 28th.

Q The 28th?

A And it is in response to a letter dated July the 14th.

MR. ROBERTSHAW: We offer that as Exhibit 19.

[203] THE COURT: All right, let it be shown to counsel, if counsel hasn't already seen it.

MR. ROBERTSHAW: Counsel has a copy.

MR. BANKS: No objection.

THE COURT: Let it be received.

THE CLERK: Defendants' Exhibit No. 19 received into evidence.

THE COURT: All right, you may go ahead.

BY MR. ROBERTSHAW:

Q Now, other than that correspondence, do you know of any other written communication between the District and Mrs. Givhan relating to her failure to be rehired?

A Not that I can recall.

Q To your knowledge has she ever requested a hearing before the Board?

A Not to my knowledge.

Q During the period that you have been a member of the Board has any request for a hearing before the Board to your knowledge been denied?

A No, there hasn't. Not to my knowledge.

[204] THE COURT: If they haven't received one, I don't guess they could deny it.

MR. ROBERTSHAW: Sir?

THE COURT: I say, I guess if he hasn't received a request for a hearing it would go without saying that he hasn't denied such a request, since he never received it.

MR. ROBERTSHAW: No, sir. My question was has any request for a hearing been received by the Board.

THE COURT: And he said not that he knew of.

MR. ROBERTSHAW: That is correct.

THE COURT: Then you asked him if any such request had been denied, and I say that answers itself.

MR. ROBERTSHAW: I am sorry, if the Court please. It is late in the day.

THE COURT: If he didn't get a request, how can he deny it?

MR. ROBERTSHAW: [205] Right.

THE COURT: Go ahead.

MR. ROBERTSHAW: I think I made it clear, one, that Mrs. Givhan has never requested a hearing.

THE COURT: Yes, sir.

MR. ROBERTSHAW: And, second, that no request for any hearing has ever been denied by the Board since he has been a member of it.

THE COURT: All right.

BY MR. ROBERTSHAW:

Q Now, the minutes that are being copied, page 131, simply state that the letter which is Exhibit—

THE COURT: I think I have it here. Did I give it back to you, Madam Clerk?

MR. ROBERTSHAW: No, sir, it is Exhibit 18. And it was read to the Board.

THE COURT: All right.

[206] MR. ROBERTSHAW: And we would like to, lest I forget it, simply introduce that page, when it is returned by the Crier.

THE COURT: All right, let it be received, Madam Clerk, when it gets back get it and receive it into evidence.

(Defendants' Exhibit No. 18 received in evidence.)

THE CLERK: Yes, sir.

BY MR. ROBERTSHAW:

Q Mr. Cochran, directing your attention to the failure to rehire Mrs. Hodges. Was the Board later given a copy of the application by Mrs. Hodges to Atlanta University?

A I believe we were.

Q All right, sir, what effect if any would Mrs. Hodges' act have in your mind as a member of the Board upon her qualifications as a Counselor?

A Well, I think it would have an adverse effect, so far as thinking of her being a person that would be the Counselor.

THE COURT: I am sorry, Mr. Robertshaw, but I can't consider that, after the act had already been completed and she had not been rehired.

There is no objection on the part of counsel for [207] the plaintiffs in the case. But I think on my own initiative, I want to announce to you I cannot consider things that happened after the Board decided that there wouldn't be any reemployment.

I have to act upon evidence that the Board had before them at the time the decision was made.

BY MR. ROBERTSHAW:

Q After this information had come to the attention of the Board, do you know whether or not Mrs. Hodges reapplied for the job of counselor?

A Later she did.

THE COURT: Now, I want to know how he knew that she had reapplied for that position. She ordinarily would reapply to the Superintendent or to the Principal and not to the Chairman of the Board.

Now, if he has any personal knowledge of it, of course he can testify to it. But if he has knowledge from hearsay or what somebody has told him, of course it is clearly incompetent and hearsay testimony. So, let's find out what knowledge he has in such reapplication or application for reemployment.

BY MR. ROBERTSHAW:

Q What knowledge do you have as a member of the Board of this application, Mr. Cochran?

[208] THE COURT: Personal knowledge.

Q Personal knowledge.

A Well, I don't remember if it was Mrs. Hodges or who made the statement that she was refused employment in November, I mean, the early part—

MR. BANKS: He is not testifying from personal knowledge, Your Honor.

THE COURT: Yes, unless he can state that he knows, that Mrs. Hodges made that statement to him, I won't permit that testimony to come in.

If he talked to Mrs. Hodges and Mrs. Hodges told him that she had made an application to be reemployed and she was not reemployed, I will permit him to testify to it.

BY MR. ROBERTSHAW:

Q Did she make any statement to you or such a request to you?

A She did not, not to me directly.

Q All right, do you know to whom she did make such a request?

A Mr. Morris.

MR. BANKS: [209] That is again hearsay.

THE COURT: Yes, sir, objection sustained. If you have any written application in the file, Mr. Robertshaw, or anything to indicate from the records, you can produce that as a business record and I will consider it. But, then, I can't consider the hearsay evidence about a matter so important.

MR. ROBERTSHAW: We tender the witness.

THE COURT: You may take the witness on cross-examination.

CROSS-EXAMINATION

BY MR. BANKS:

Q Mr. Cochran, how long have you been President of the School Board?

A Oh, it must be somewhere in the neighborhood of fifteen years or thereabouts. I am not real sure as to the exact year.

Q You have been President for fifteen years?

A Thereabouts.

Q You made the statement that you made an attempt to follow the Court's order regarding faculty assignments; is that your statement?

A I believe I did make that statement.

[210] THE COURT: Just a minute. Make the announcement about that last exhibit, please, ma'am.

THE CLERK: Defendants' Exhibit No. 20 received into evidence.

THE COURT: All right.

BY MR. BANKS:

Q The Court's order instructed you to assign the faculty in the school district so that the ratio at each school would reflect the ratio of the faculty as a whole, did it not?

A I believe that is correct.

Q For the year 1974-75, isn't it true that at Glen Allan school there were 17 black faculty members and 13 white faculty members?

A I have no idea.

BY THE COURT:

Q Do you want to get the records to look at?

A I wouldn't want to make the answer without the records. I don't know.

MR. BANKS: Okay.

THE COURT: Do you have the last report on the School District?

[211] MR. BANKS: Yes, Your Honor.

(Document handed to the witness.)

BY MR. BANKS:

Q I show you the report to the Court dated October 15, 1974.

A I don't see any date on this.

Q Isn't it on the last page?

A Is it 1974 we are talking about?

THE COURT: Yes, sir.

MR. BANKS: Yes, sir.

THE COURT: I believe the only date you can see is on the back page of it. It has got Mr. Robertshaw's certificate on October 15, 1974, and it was filed on October the 16th, 1974.

BY MR. BANKS:

Q Is that a report that was submitted by the defendants in this cause by Mr. Robertshaw in your behalf?

A Correct.

Q You don't have any doubt about the accuracy of the report?

A Beg pardon.

[212] Q You don't doubt the accuracy of that report any way, do you?

A No, I don't doubt the accuracy of this report.

Q Does that report show you have 38 white teachers and 15 black teachers at Riverside?

A (Examined)

THE COURT: What is your question, now?

MR. BANKS: That there are 38 white teachers and 15 black teachers at Riverside, Your Honor. I asked him if that report reflects that fact.

A No, this report don't show that; not as I interpret it.

Q What does it show with regard to white teachers at Riverside?

A Well, it starts out, "Principal, Assistant Principal, Elementary Principal, Special Ed. Supervisor, Teachers, Special Ed. Teachers, Study Hall".

Q Does it have Special—

THE COURT: Don't interrupt him while he is talking.

MR. BANKS: I'm sorry.

A (Resumed) And the total of that is, white 32 and [213] one-half, and the total black is 15 and a half at the Riverside School.

BY MR. BANKS:

Q All right. And the report also shows that you have a total staff and faculty at O'Bannon School of 42 black and how many white?

A 14 and a half. And 42 black is correct.

MR. BANKS: Your Honor, I would like to have that page from the report to the Court marked and submitted as evidence.

THE COURT: All right, let it be received.

THE CLERK: Defendant's Exhibit No. 21 received into evidence.

BY MR. BANKS:

Q Mr. Cochran, going back to 1969, when you heard about a meeting over at the O'Bannon School, wasn't that meeting occasioned by the failure of your School Board to assign faculty members to the O'Bannon School?

A I am a little bit confused about that date 1969. I believe we got the order in January, was it not?

THE COURT: Of '70.

THE WITNESS: Sir?

[214] THE COURT: Of '70.

THE WITNESS: We are talking about the '69 and '70 school year, or the '70 and '71 school year.

BY MR. BANKS:

Q Do you recall the previous order in the summer of 1969 which required you to assign a certain number of white faculty to black schools and a certain number of black faculty to white schools?

A Yes.

Q Do you recall assigning two black faculty members from O'Bannon to Riverside?

A Yes.

Q Do you recall assigning any white faculty member from Riverside to O'Bannon?

A Not at the moment, I do not.

Q Isn't it a fact that the Board refused to require white faculty members to go to black schools?

A The Board did not refuse. The Board tried. If we didn't have them up there as the Court instructed us to, we tried.

Q Did the Board fire any white teachers for refusing to take an assignment in a black school?

A Not that I remember. It is possible that they did, [215] but I don't remember it.

Q Did the white teachers refuse to take an assignment in black schools?

A Possibly some of them could have. But in doing it, we didn't fire any of them to my knowledge. We lost teachers, white and black during that period.

MR. BANKS: I don't think I have anything further, Your Honor.

THE COURT: Is there anything on redirect?

MR. ROBERTSHAW: Nothing further.

THE COURT: You may step down.

THE WITNESS: Your Honor, if I may, I would like to make one statement that might clarify some of the actions the Board has taken.

THE COURT: All right.

THE WITNESS: I made the statement earlier, or I mentioned the fact that the Board had heard rumors, and gossip, and talk, and so on and so forth. That was one of the reasons for the extended year that the Board had [216] considering the rehiring of Mrs. Givhan, in that we might evaluate first hand the actual reasons that we had to confront ourselves with, to take the action that we had taken.

It wasn't because of the rumors, but rumors created a desire on our part to get on down into the thing a little bit deeper and then we would know a little fuller about the things that were happening. Because we felt compelled, if we could, to keep the black teachers. Because we felt more or less that if we didn't keep them that they might could find or would find some way to construe it into a fact that we had discriminated against them because they were black. And, actually, we were bending over backwards trying to keep that thing from happening.

But in the face of our thinking, and in face of the evidence put before us, the actions that you have heard here today, is the result of our decision at the time.

THE COURT: All right, thank you, sir.

Anything further?

MR. BANKS: One more question.

THE COURT: [217] All right.

BY MR. BANKS:

Q Mr. Cochran, Riverside is a majority white school?

A Right.

Q It is the only majority white school in your district?

A Right.

BY THE COURT:

Q Is it a majority white school now?

A Yes, sir. Wait just a minute.

Q Well, I guess the report shows it?

A Yes, sir. There are more whites there than there are in either of the other schools. The majority, I am not sure which is a majority. I believe the black are in the majority.

Q All three schools now are grades one through twelve?

A Right.

Q And there are zones for that particular space?

A Yes, sir.

THE COURT: All right.

MR. BANKS: I would like to introduce the entire document, the entire report.

[218] THE COURT: Let the entire report be introduced.

MR. BANKS: Instead of just one page.

THE COURT: All right.

MR. BANKS: And that is all, Your Honor.

THE COURT: All right. All right, thank you, Mr. Cochran. You may step down.

(The witness stepped down.)

MR. ROBERTSHAW: We will take Mr. Adams.

THE COURT: All right, come around Mr. Adams.

AND THEREUPON,

HAROLD ADAMS,

called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ROBERTSHAW:

Q Would you state your name, please?

A Harold Adams.

Q What is your occupation?

[219] A Superintendent of Western Line School District.

Q And when did you become Superintendent?

A I became Superintendent in January of '73. I believe that is correct.

Q When were you first employed by Western Line?

A January of '72.

Q And in what capacity?

A As Assistant Superintendent.

Q Now, in the spring of '73, were you present in the administration building when Mrs. Hodges came to make a request on Mr. Morris?

A I don't believe it was the spring of '73, because I believe in the spring of '73 Mr. Morris had retired. But the time that you are talking about, I was in the administrative building. I don't remember the date. But, she did come by to talk to Mr. Morris about a job. And Mr. Morris called me in, and I was there when Mr. Morris talked to her.

Q Now, was that before or after the action had been taken failing to rehire her?

A That was afterwards.

Q All right, was it before or after the end of that school year?

A The best of my knowledge it was after that school year, the end of that school year.

Q All right, sir, for what purpose did Mrs. Hodges [220] come to see Mr. Morris?

A To ask him wouldn't he give her a job.

Q All right, were you present when the discussion between Mrs. Hodges and Mr. Morris took place?

A I was present during part of the discussion anyway, because he had called me in to be in there when he was talking to her—Mrs. Hodges.

Q All right, will you relate to the Court that part at which you were present with both Mrs. Hodges and Mr. Morris?

A I was there when Mrs. Hodges was talking to him about a job, and he asked me to go and get her folder. And he pulled out and showed her this correspondence from Atlanta University, I believe it was, and told her he would not consider reemploying her.

MR. ROBERTSHAW: Would you indulge me just a moment?

THE COURT: Yes, sir.

(Mr. Robertshaw conferring with the Clerk off the record.)

MR. ROBERTSHAW: I will ask the Marshal to hand the witness Exhibits 5 and 6.

(Handed to the witness.)

THE WITNESS: [221] These are the ones that came from her folder.

BY MR. ROBERTSHAW:

Q And these are the ones that Mr. Morris showed her?

A These are the ones, right.

Q And gave her as a reason for not rehiring her?

THE COURT: Don't lead him, now, Mr. Robertshaw. Let him testify.

MR. ROBERTSHAW: Yes, sir.

A He did ask me to go get her folder. He pulled these out and handed them to her and told her that he would not consider rehiring her.

MR. ROBERTSHAW: We tender the witness.

THE COURT: All right, you may take the witness on cross-examination.

CROSS-EXAMINATION

BY MR. BANKS:

Q Mr. Adams, you were employed by the School District in January of 1972?

A January of '72.

Q At that time how many counselors were there in the District?

[222] A At that time there was one counselor.

Q All right, when was the decision made to go to one counselor districtwide?

A When we employed a counselor for the fall. Now, the date, I don't remember, but I imagine it was in March or April, something like that. We decided to use one for the whole district.

Q In March or April of 1972?

A That is correct.

Q And what is the name of that counselor?

A Tony Cintgran—C-I-N-T-G-R-A-N.

Q What is his race?

A Beg pardon?

Q What is his race?

A I didn't understand you.

Q What race is he?

A Oh, he is white.

Q How long has he been the counselor? Is he still the counselor?

A He is still the counselor.

Q He is the counselor for all three schools?

A All three schools in the district.

Q No individual school in the district has a counselor?

A That is correct.

[223] Q Who made that decision to go to districtwide counseling?

A Mr. Morris.

MR. BANKS: I don't think I have anything further, Your Honor.

THE COURT: Anything further?

MR. ROBERTSHAW: Defendants rest.

BY THE COURT:

I want to ask him one or two questions about this matter here that is not quite straight in my mind, about when Mrs. Hodges came back and made this application for reemployment.

Q You did not become Superintendent of the schools—

A Until '73.

Q —until January of '73?

A That is correct.

Q So in 1972 you were with the school district?

A That is correct.

Q As an Assistant Superintendent?

A That is correct.

Q Now, was Mrs. Hodges on the faculty at that time?

A She was on the faculty at the time I began working.

[224] Q Was she on the faculty at the time she came in to see Mr. Morris about reemployment?

A Judge, the best of my knowledge, this was in the summertime when she came and asked Mr. Morris about that.

Q Of 1972?

A Of 1972. To the best of my knowledge it was after school was out. I could be mistaken on the time.

Q She had already been discharged at that time, hadn't she?

A She had not been reelected back, that is correct.

Q For that year?

A For the following year.

Q For the following year?

A Yes, sir.

Q So, it was in between the time—

A That is correct.

Q —that she finished out the year for which she was employed and the beginning of the year for which she was not employed that she came to see Mr. Morris about?

A That is correct.

Q About reemployment?

A Now, it could have been before school was out, but I believe it was in the summertime, to the best of my knowledge, the best of my memory.

THE COURT: [225] All right. I wanted to get that in my mind, when she went in to ask for reemployment.

Q The letters to the Atlanta people was in April of '72, and the proof shows that she had already been notified that she was not going to be reemployed before that ever happened.

A Right.

THE COURT: I wanted to find that out. All right, thank you.

(The witness stepped down.)

All right, the defendant has rested now. Do you have anything in rebuttal?

MR. BANKS: No, Your Honor.

THE COURT: I want to ask Mrs. Hodges a question about this matter. I want to put Mrs. Hodges back on the stand and ask her about this matter of when she talked to Mr. Morris to be reemployed.

AND THEREUPON,

DOLLYE W. HODGES,

called as a witness on behalf of the Court, having been previously sworn, testified as follows:

BY THE COURT:

Q Mrs. Hodges, you have heard the testimony here of [226] the Superintendent of the schools now that he was

present at the time, some time, either at the end of the 1971-72 school year, or in the summer, the six weeks that followed that school year, when you came back to see Mr. Morris about reemployment.

Will you testify as to what happened about that matter?

A Yes, sir, it was in September of '72, at the beginning of the next school year. And I heard that there was an opening at O'Bannon and they were looking for a counselor. So I got into my car and drove down to ask Mr. Morris if he would reconsider hiring me.

Q Yes, ma'am.

A And I asked him if he would consider hiring me, and he said, "No", he would not consider it. And I asked him why. He said, "First, Mrs. Hodges, two years ago when I asked you to teach fourth grade you refused to teach fourth grade. You said you were ill, but I learned later that you said it would be taking a demotion from a high school counselor to a fourth grade teacher, and that the Court had said not to take a demotion", so you refused to teach the fourth grade. And he said, "That is one reason why I would not hire you".

"The other reason is a letter that you wrote." And I said, "Which letter, Mr. Morris"? This is the first [227] time I had heard of a letter. No one had told me anything about a letter before then. And he said, "The letter you sent to Atlanta". And I asked him to let me see the letter, because at that time I was not thinking of the recommendation I had sent to Atlanta. And he called Mr. Adams and asked him to bring my record in. And that is when I heard of the letter.

Q He showed you the letter?

A Yes, sir, he showed me the letter, and I read it. And I told him I had written it then. I told him, as I told the Court earlier today, that I was under pressure, I was looking for a job or trying to get into a doctoral

program, and I was under pressure, and I just did it without thinking, but I was sorry.

THE COURT: I understand. I just wanted to get your version of it.

All right.

MR. BANKS: That has been brought out on direct, Your Honor. That is the reason I didn't call her back.

THE COURT: All right, you may step down. I wanted to refresh my memory with reference to the matter.

All right, gentlemen, do you want to argue the case? [228] If you do, we are not going to argue it this afternoon, I will tell you that. I want to know how much time you want to argue.

MR. ROBERTSHAW: If the Court please, I would like to argue but I would much prefer arguing it in the morning.

THE COURT: Well, I would prefer that too, because it is getting late. It is 4:30, and I would like to study the records a little bit myself before the arguments.

MR. BANKS: I would rather submit a brief rather than oral argument to the Court.

THE COURT: Well, I think I will just hear the oral argument to see if I can't decide it from the bench, because I don't want to take it under advisement and have to write a long and detailed opinion in the case.

I think I will see if I can't get the evidence together and make some decision on it and decide it tomorrow.

So, we will be in recess now until 10 o'clock in the morning. Be back at 10 o'clock in the morning. That will give me time in the morning to look over the records.

[229] (Court adjourned from 4:30 p.m., Wednesday, May 7, 1975, until 10:00 a.m., Thursday, May 8, 1975.)

THE COURT: Be seated, please.

Gentlemen, how long do you want to argue the case this morning? Ladies and gentlemen. I apologize, Miss Stewart.

MISS STEWART: That's okay.

THE COURT: We have so few ladies that practice law in my court, I very often neglect to bring them into the form of my questions, or the form of my introductions.

About how long, Mr. Banks?

MR. BANKS: Fifteen or twenty minutes will be fine.

THE COURT: Will that be satisfactory with you?

MR. ROBERTSHAW: I would prefer about thirty.

THE COURT: Can't you say in twenty minutes what you can say in thirty, sort of get it together?

MR. ROBERTSHAW: I have it fairly well organized, Judge. I think [230] it will take about thirty minutes.

THE COURT: All right. Then you have thirty minutes to the side.

MR. ROBERTSHAW: If I can cover it in less time, I will.

THE COURT: All right.

(Mr. Banks then argued to the Court on behalf of the plaintiffs.)

(Mr. Robertshaw argued to the Court on behalf of the defendants.)

(Mr. Banks made a final argument to the Court.)

THE COURT: Gentlemen, court will be in recess until 11:15.

(Court recessed from 10:50 a.m. until 11:22 a.m.)

—RULING OF THE COURT—

THE COURT: I have decided in this case, in view of the evidence that has been presented to the Court and the complicated nature of some of the legal principles which are involved in the case, that I am going to take the case under advisement.

It is my recollection—and if I happen to be wrong about it, I would appreciate being corrected by counsel [231]—that the first order in the Ayres case, as I recall it, was entered some time in the summer of 1969. I am not sure whether or not that order included the Singleton provisions or not, or as to whether they were not brought forward into the order of the Court until in February of 1970, or at least in January of 1970.

The evidence in this case shows that Mrs. Givhan was not reemployed for the 1971-72 school year.

Is that not correct?

MR. ROBERTSHAW: No, sir, she was employed for 1970-71. Excuse me. I misunderstood the Court.

THE COURT: My notes show that she was not—and I reviewed this before I made these notes—that she was not recommended for reemployment for the school year 1971-1972.

MR. ROBERTSHAW: That is correct. And the orders that the Court referred to, the Singleton decree is contained in the order of January 12th.

THE COURT: 1970?

MR. ROBERTSHAW: 1970. And the order signed on January 21st of [232] 1970, in paragraph 8, incorporates paragraph 4 of the January 12th order.

THE COURT: Well, there is no question but what the Singleton provisions were not in force in this school district when the decision was made not to reemploy Mrs. Givhan in the spring of 1971.

As I understand it, she was moved into this school for the full year of 1970-71. She maybe was in the school the year before. But, anyhow, she did teach there in 1970 and 1971, and she had had previous service with the school district for about eight years, as I recall, and prior to that time had been employed in the Bolivar County schools for four years.

Now, the only question that I have in my mind at this time that prevents me from rendering a decision in this

case is whether or not there was a compliance by the school district with reference to the provisions of the Singleton decree when it made the decision not to re-employ Mrs. Givhan in the 1971-72 school year.

The same thing applies to Mrs. Hodges in the 1972-1973 school year.

So I am going to ask counsel to give me a brief on that one point. Assuming for the sake of the brief, and for the sake of argument, that there has been a [233] failure on the part of the plaintiff in the case to show by a preponderance of the evidence that the reasons or causes for the noncontinuance of these two teachers in this school system was other than the reasons given by Mr. Leach.

In other words, assuming for the sake of argument that they were not employed because of those reasons and not because of any racial discrimination or violation of any First Amendment rights on the part of Mrs. Givhan, leaving those out of consideration. I don't care to have any argument about that, nor the law either, because I think I am fully informed on that.

But there is a case in the Fifth Circuit discussing the discharge of teachers while the school is being desegregated and is under the process of performing the unitary system that certain prerequisites have to be followed before you are permitted to discharge or the failure to rehire a person in the school.

Now, there has been no evidence in this case that this school district established any criteria by which teachers would be demoted or would be discharged because of the fact that they were not needed to teach in the school. There is no evidence in this case that the school has any written criteria established. So, that question is uppermost in my mind now, and I must have [234] some assistance on it from counsel.

I give the plaintiff ten days within which to file a brief on that one particular point—whether or not the dis-

charge of these two teachers was in violation of the Singleton provisions of the order desegregating the school district.

And I will give counsel for the defendants the opportunity to reply within ten days. And I will give plaintiff an opportunity to respond within five days after that. The regular schedule for briefing that is adopted by the court.

Now, as I say, I do not want you to go into a brief on the other points, because I feel like I have that pretty well under control. But I do need a little assistance on the question of whether or not these are Singleton cases and would involve a Singleton discharge. If so it might have some bearing on the case and what I feel like I should do about it.

Is there any question now on the part of either party with reference to what I want?

Do you have any questions, Mr. Robertshaw?
MR. ROBERTSHAW: No, sir.

THE COURT: All right, after I receive those briefs, then I [235] will give you some written decision in connection with the case. I will file a written decision and opinion in connection with the matter.

Court will be in recess until 4 o'clock this afternoon, at Oxford, Mississippi.

(Concluded at 11:42 a.m., Thursday May 8, 1975.)

—CERTIFICATE OF COURT REPORTER—

I, B. L. Holman, Official Court Reporter for the United States District Court for the Northern District of Mississippi, hereby certify that the foregoing 235 pages constitute a true and correct transcript of the proceedings reported by me in the above-styled cause on May 7 and 8, 1975.

This, the 13th day of November 1975.

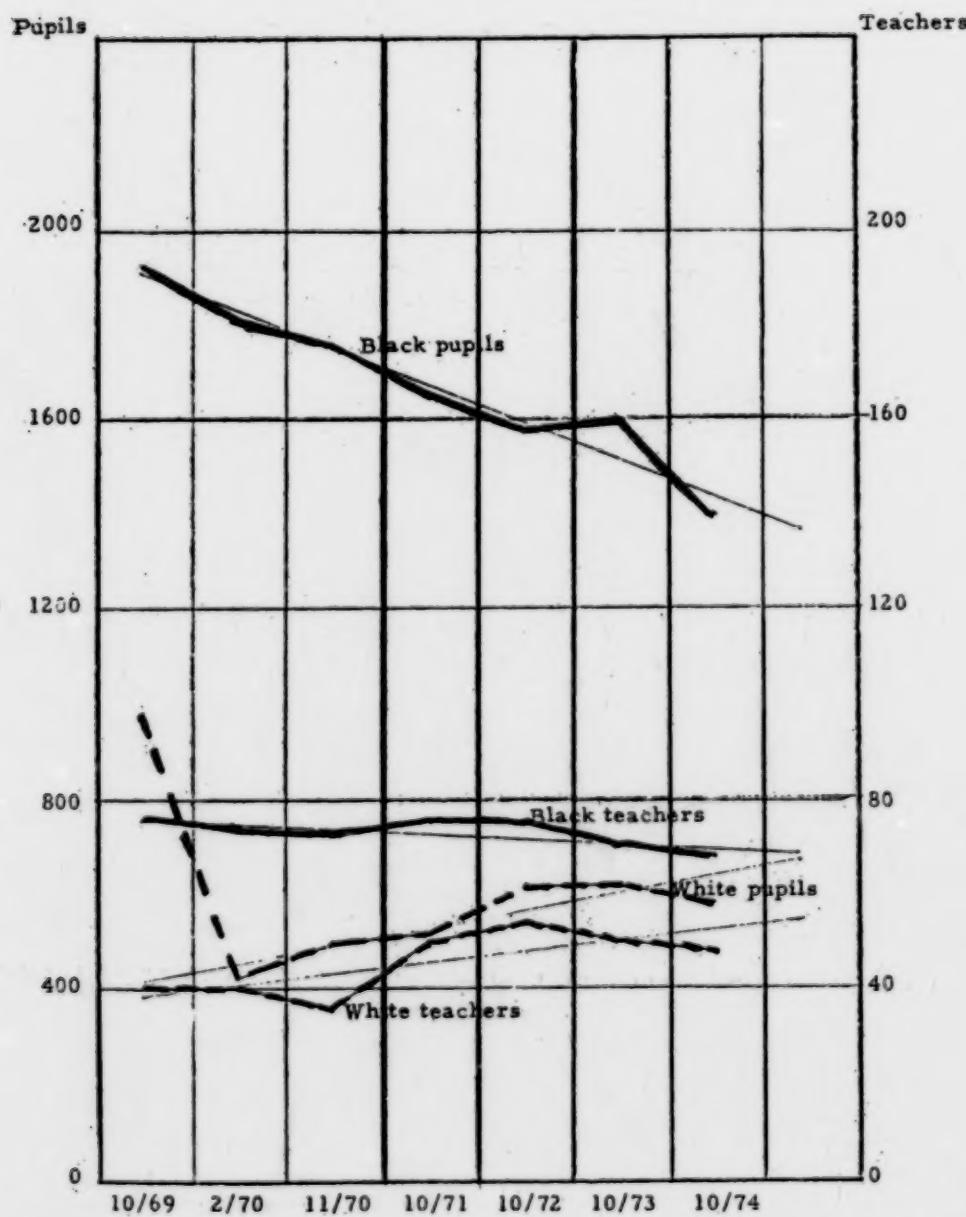
/s/ B. L. Holman
B. L. HOLMAN
Official Court Reporter

B. Trial Exhibits

Stipulated Exhibit No. 1, Analysis of Annual Changes, Classroom Teachers, WLCSD 1969-70 through 1973-74, is printed as Appendix II of the Brief in Opposition.

Stipulated Exhibit No. 2

POPULATION CHANGES, WLCSD
Classroom Teachers and Pupils
1969-70 through 1974-75



SOURCE: Chart II, Plaintiffs-Intervenors' Response to Defendants' Supplemental Request for Admissions